Public Comment Summary Report

Second Proceeding for Proposed Language for Draft Sections of the Next Round Applicant Guidebook

Open for Submissions Date:
Tuesday, 10 September 2024

Closed for Submissions Date:
Monday, 21 October 2024

Summary Report Due Date:
Wednesday, 06 November 2024 (extended from Monday, 04 November 2024)

Category: Policy

Requester: ICANN org

ICANN org Contact(s): jared.erwin@icann.org

Open Proceeding Link: https://www.icann.org/en/public-comment/proceeding/second-proceeding-for-proposed-language-for-draft-sections-of-the-next-round-applicant-guidebook-10-09-2024

Outcome:
In total, twelve Public Comments were submitted by stakeholders from across the community on the proposed language for draft sections of the Next Round Applicant Guidebook (AGB). Commenters considered whether the proposed language was consistent with the Final Report on the new gTLD Subsequent Procedures (SubPro) Policy Development Process (Final Report) outputs and some provided suggestions for amendments and/or clarification of the language on certain topics. All the Public Comments received will be carefully considered by ICANN org. Any changes required to the proposed language will be reviewed with the SubPro Implementation Review Team (IRT).

ICANN org ensures that requirements of the Next Round are made clear for applicants by 1) soliciting input from the ICANN community on the proposed language of the AGB; and, 2) collaborating with the IRT to make sure it is consistent with SubPro Final Report outputs.

Section 1: What We Received Input On

This Public Comment proceeding was the second in a series of proceedings to seek input from the ICANN community on proposed language for the AGB for the New gTLD Program: Next Round. As this was a structured Public Comment proceeding, commenters were asked a general yes or no question as to whether each proposed AGB section (listed below) was

consistent with the SubPro Final Report outputs. The yes or no response is informational only and is not a vote on the topics or language.

In this second proceeding, ICANN org published the following draft sections of the AGB:
- Subsequent Application Rounds (Topic 3: Applications Assessed in Rounds)
- Background Screening (Topic 22: Registrant Protections)
- String Similarity Review (Topic 24: String Similarity Evaluations)
- Internationalized Domain Names (Topic 25: IDNs)
- Dispute Resolution Procedures After Delegation (Topic 33: Dispute Resolution Procedures After Delegation)
- Registrar-Non-Discrimination / Registry/Registrar Standardization (Topic 37: Registrar Non-Discrimination / Registry/Registrar Standardization)
- Registrar Support for New gTLDs (Topic 38: Registrar Support for New gTLDs)
- Root Zone Label Generation Rules (Topic 25: IDNs)
- Closed Generics (Topic 23: Closed Generics)

Specifically, ICANN org sought input from the community on whether the proposed language is consistent with the relevant SubPro Final Report outputs. It should be noted that the proposed language was developed in collaboration with the SubPro IRT.

Section 2: Submissions

Organizations and Groups:

Name	Submitted by	Initials
International Trademark Association	Lori Schulman	INTA
Non-Commercial Stakeholder Group	Mesumbe Tomslin Samme-Nlar	NCSG
Intellectual Property Constituency	Patrick Flaherty	IPC
Registries Stakeholder Group	N/A	RySG
Governmental Advisory Committee	Benedetta Rossi	GAC

Individuals:

Name	Affiliation (if provided)	Initials
Ashley Roberts	N/A	AR
Na Xing	CAICT	NX
Wei Wang	N/A	WW
Rui Zhong	Internet Society of China	RZ
Lang Wang	N/A	LW
Lijun Wang	Research Center for Collation and Standardization of Chinese Characters	LW
Justine Chew	N/A	JC

Section 2a: Late Submissions

At its discretion, ICANN org accepted a late submission from the NCSG to append its submitted comment, due to character limitations. This has been appended to this summary report.

Organizations and Groups:

Name	Submitted by	Initials
Non-Commercial Stakeholder Group	**Tomslin Samme-Nlar**	**NCSG**

Section 3: Summary of Submissions

In some cases, submissions found the proposed language to be consistent with the SubPro Final Report outputs but called out areas for potential improvement or clarification. In other cases, submitters found that the proposed language was **not** consistent with the outputs. These responses and any additional comments are summarized in the table below. The table also includes a tally of responses by response type, along with a summary of comments, organized by topic.

Topic	Overview of Responses *("Is the proposed language consistent with the relevant SubPro Final Report recommendations?")*[1]	Summary of Additional Comments
Applications Assessed in Rounds (Topic 3)	• **Yes**: 3 • **No**: 3 • **No response**: 6	One submission highlighted a need for clearer, more predictable scheduling of future application rounds, as the current language conflicts with recommendations to disclose a predicted schedule prior to the opening of the next subsequent round. One submission expressed concerns that the input from non-contracted parties has been overlooked and that, to stay in line with ICANN's multistakeholder model, ICANN should address community engagement concerns regarding harms to the domain name system. One submission requested clarifications on decision-making authority, specifically it was noted that

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[1] Note that this is informational only and does not indicate a "vote" as it relates to the topic or language, but rather a general question to facilitate responses from commenters and the analysis of the responses by ICANN.

Topic	Overview of Responses *("Is the proposed language consistent with the relevant SubPro Final Report recommendations?")[1]*	Summary of Additional Comments
		Recommendation 3.5 allows the GNSO Council to suggest pausing the New gTLD Program. It was noted that this guidance also may be more appropriate in a different AGB section.
Registrant Protections (Topic 22)	• **Yes**: 2 • **No**: 4 • **No response**: 6	Multiple submissions highlighted the need for clarity and fairness in the background screening guidelines. There was a request for flexibility to support diverse applicants, including newly formed entities and underrepresented organizations. Multiple submissions recommended removing the 10-year rule regarding infringement, arguing that mere allegations cannot be sufficient to disqualify an applicant. Concerns were raised that this could create unfair barriers and encourage gaming. Multiple submissions also recommended removing the four-year cybersquatting limitation and proposed that multiple instances within a single finding should count as multiple decisions. One submission suggested a correction to section numbering.
String Similarity Evaluations (Topic 24)	• **Yes**: 3 • **No**: 3 • **No response**: 6	Multiple submissions highlighted the need for clearer definitions and consistency with Board recommendations, particularly regarding the term "similar." One submission raised a concern about potential discrimination against non-

Topic	Overview of Responses *("Is the proposed language consistent with the relevant SubPro Final Report recommendations?")*[1]	Summary of Additional Comments
		commercial applicants due to exceptions for .BRAND gTLDs and the need for more flexibility in string evaluations. Multiple submissions emphasized the importance of clear guidance and tools to help applicants understand the assessment process before the next application submission period opens. Multiple submissions requested precise language regarding "Blocked Names" and "Reserved Names" throughout the guidelines.
Internationalized Domain Names (IDNs) (Topic 25)	• **Yes**: 5 • **No**: 4 • **No response**: 3	Multiple submissions highlighted the need for expert review, due to the complexity of the IDN topic. Multiple submissions argued that the language concerning the compliance with RZ-LGR aligns with SubPro Final Report outputs. However, significant concerns were raised about the delegation of single-character TLDs in Han script, which call for a more conservative approach and further guidelines from the Chinese, Japanese, and Korean Generation Panels before any applications are accepted. One submission requested clearer terminology regarding "Reserved Names" and "Blocked Names" in the AGB.
Dispute Resolution Procedures After Delegation (Topic 33)	• **Yes**: 3 • **No**: 3 • **No response**: 6	One submission emphasized the need for explicit prohibitions against fraudulent conduct by registry operators.

Topic	Overview of Responses *("Is the proposed language consistent with the relevant SubPro Final Report recommendations?")*[1]	Summary of Additional Comments
		Multiple submissions requested clearer, more detailed guidance on the scope and processes of Dispute Resolution Procedures to benefit global stakeholders, along with references to recent ICANN Board resolutions affecting the Public Interest Commitment Dispute Resolution Procedure and Registration Restrictions Dispute Resolution Procedure-related commitments. There was concern that relevant information regarding how it is written currently is not accessible to future applicants and stakeholders. Multiple submissions highlighted the necessity of explicitly mentioning the requirement for allegations of bad faith registration in Trademark Post-Delegation Dispute Resolution Procedure. One submission called for the "ICANN Report to specifically reference resolutions of the Board regarding Public Interest Commitments and Registry Voluntary Commitments."
Registrar Non-Discrimination / Registry/Registrar Standardization (Topic 37)	● **Yes**: 3 ● **No**: 2 ● **No response**: 7	One submission emphasized that the term "non-discriminatory access" lacks a clear definition and context. The commenter recommended providing practical examples, such as inclusion/exclusion based on a registrar's total domains under management, a registrar's openness to all prospective customers, or Registry-Registrar Agreement (RRA) pricing or liability terms.

Topic	Overview of Responses *("Is the proposed language consistent with the relevant SubPro Final Report recommendations?")[1]*	Summary of Additional Comments
		Multiple submissions pointed out that an important aspect regarding exemptions to the Registry Code of Conduct is missing from the draft language. They suggested integrating the requirement for Public Comment into the main text to be more transparent and accountable, thus supporting registrar non-discrimination.
Registrar Support for New gTLDs (Topic 38)	● **Yes**: 4 ● **No**: 1 ● **No response**: 7	One submission recommended deleting the word "partnerships" in Section 1.1 to avoid legal confusion. One submission emphasized that it should be clarified that applicants will not be receiving financial or legal support from ICANN. One submission proposed to rephrase section 1.3 to specify that ICANN-accredited registrars will decide whether to enter into each RRA with the registry operator and support the gTLD by adding it to their product line-up.
Root Zone Label Generation Rules - IDNs (Topic 25)	● **Yes**: 5 ● **No**: 3 ● **No response**: 4	Multiple submissions emphasized the complexity of Root Zone Label Generation Rules for IDNs, requiring expert input and Public Comment on challenge mechanisms. Concerns were raised about the risks of single-character Chinese domain name applications, particularly regarding the potential confusion from the multiple meanings of Chinese characters.
Closed Generics (Topic 23)	● **Yes**: 4 ● **No**: 2	Multiple submissions emphasized the need for clarity regarding the definition

Topic	Overview of Responses *("Is the proposed language consistent with the relevant SubPro Final Report recommendations?")*[1]	Summary of Additional Comments
	● **No response**: 6	of "closed generics" to ensure that applicants for .BRANDS under Specification 11, which may be generic terms for other goods, are not excluded. The call is for clearer definitions to align with past practices and protect applicants. Multiple submissions argued that the community should abandon the concept of closed generics in new gTLD rounds entirely, citing a lack of consensus and the substantial resources already devoted to the issue.

Section 4: Analysis of Submissions

In analyzing the submissions, ICANN org will take into account the items below and discuss any changes to the proposed AGB sections with the IRT.

- Clarifying process and criteria for subsequent application rounds
- Clarifying process and criteria for background screening
- Clarifying process and tools related to string similarity evaluation
- Considering concerns related to Han single-character TLDs
- Considering addition of more detailed information related to post-delegation dispute resolution procedures
- Clarifying scope and definition of "closed generics"
- Clarifying process and definitions related to Registrar Non-discrimination / Registry/Registrar Standardization

Section 5: Next Steps

All Public Comments received will be reviewed and considered by ICANN org. Any modifications required to the proposed AGB sections to reflect community input will be reviewed with the IRT.

As described in the New gTLD Program: Next Round Implementation Plan, a final draft of the AGB is expected to be completed by May 2025, which would leave enough time for a final Public Comment period, as well as consideration by the ICANN Board. All proposed language for the AGB, including the sections out for Public Comment in this proceeding, will go through a final Public Comment proceeding prior to the launch of the next round. As recommended in the SubPro Final Report, ICANN org will publish the final version of the AGB at least four months

before the opening of the application submission period for the New gTLD Program: Next Round.

More Public Comment proceedings on the language of the remaining sections of the AGB for the next round will be held in the coming months as language is developed in collaboration with the IRT.

Second Proceeding for Proposed Language for Draft Sections of the Next Round Applicant Guidebook

NCSG Comments

September 21, 2024

About NCSG

NCSG represents the interests of non-commercial domain name registrants and end-users in formulating the Domain Name System policy within the Generic Names Supporting Organisation (GNSO). We are proud to have individual and organizational members in over 160 countries, and as a network of academics, Internet end-users, and civil society actors, etc, we represent a broad cross-section of the global Internet community. Since our predecessor's inception in 1999, we have facilitated global academic and civil society engagement in support of ICANN's mission, stimulating an informed citizenry and building their understanding of relevant DNS policy issues.

About this Public Comment

1) Is the proposed Next Round Applicant Guidebook language for Subsequent Application Rounds (Topic 3: Applications Assessed in Rounds) consistent with the relevant SubPro Final Report recommendations?

(x) Yes

(_) No

If no, please explain

2) Is the proposed Next Round Applicant Guidebook language for Background Screening (Topic 22: Registrant Protections) consistent with the relevant SubPro Final Report recommendations?

(_) Yes

(X) No

If no, please explain

We support the change of title to "Background Screening." Ensuring that ICANN has clear, published and followed Background Screening Procedures, including Eligibility Criteria and Applicant Onboarding Questions is a protection for ICANN, the current Community, and our DNS users for years to come.

In general, we support the Background Screening Section as it generally reflects the work of the Community. However, we raise questions on two different sections of the language as they raise specific concerns that the rules proposed in the Applicant Guidebook DO NOT meet the requirements of the SubPro Working Group in the following two ways.

PART 1: Intellectual Property Infringement Criteria - An Eligibility Criteria that Seems Unrooted in any request of the SubPro or RPM Working Groups

We note the unusual new addition to the Background Screening Eligibility Criteria, Bullet 2, final sub-bullet:

> <<Involved in any administrative or other legal proceeding in which allegations of intellectual property infringement relating to registration or use of a domain name have been made against the applicant or any of the individuals named in the Organizational Account Record respectively, within the last 10 years.>>

This Eligibility criterion – that an Applicant "Involved in **any** administrative or other legal proceeding in which **allegations** of intellectual property infringement **relating to** registration or use of a domain name have been made against the applicant or any of the individuals named in the Organizational Account Record respectively, within the last **10 years**" means that, "in the absence of exceptional circumstance", *"any entity*

(...) not meeting the eligibility criteria listed (...) **will be** *disqualified from the program".* Similar text can be found in the section about "Applicant Onboarding Questions".

But this is not fair, or right, or balanced. "Allegations of IP infringement" can be made by anyone at any time. We also find that many allegations of registration of the domain name in bad faith fails to take into account the use of the same dictionary words, generic terms, and first and last names around the world by millions of people. Even a *finding* of bad faith domain name registration is not proof of infringement and has no precedential value. Further, only a court of law can make a finding of trademark infringement (and as above, a UDRP or URS filing is an allegation of registration of a domain name in bad faith, **not an allegation or finding of trademark or IP infringement**).

In the Applicant Guidebook of 2012, we find a similar excerpt in the "Scoring section", **but leading to a different and much more nuanced approach and result**: "(g) Disclose whether the applicant or any of the individuals named above has been involved in any administrative or other legal proceeding in which allegations of intellectual property infringement relating to registration or use of a domain name have been made. Provide an explanation related to each such instance". In this context, this was an aspect that should be evaluated, and did not appear to pose such a rigid possible barrier to applicants.

The current wording of these proceedings is inaccurate, unbalanced, and unfair, creating something upon which the SubPro WG did not seem to agree, and apparently fails to take into account the real effects of its enforcement. As above, an entity or individual involved in any <u>allegation</u> of intellectual property infringement while using or acquiring domain names in the last ten years (which is not a short time) does not necessarily mean that any real infringement occurred. This text may create a loophole for IP abuse and anti-competitive practices, and inverting the burden of proof to the person being accused of being an infringer seems too onerous to potential applicants. This proposed wording could create a whole new form of gaming.

Overall, in the original SubPro Final Report, Topic 22, the words "trademark", IP, and intellectual are not even mentioned. We don't know how a paragraph this broad, vague and undefined appeared in the Eligibility Criteria, and we respectfully request that it be deleted immediately as inconsistent with the advice of the SubPro and the inclusive goals of the New gTLD Program:

Involved in any administrative or other legal proceeding in which allegations of intellectual property infringement relating to registration or use of a domain name have been made against the applicant or any of the individuals named in the Organizational Account Record respectively, within the last 10 years

PART 2: WG Recommendation 22.4 not being sufficiently covered - where is our broad and inclusion of many types of entities?

It is also important to note that the SubPro WG Final Recommendation 22.4 mentions that the revision should "consider whether the background screening procedures and criteria could be adjusted to account for a meaningful review in a variety of cases". Specifically:

> "Recommendation 22.4: The Working Group supports Recommendation 2.2.b. in the Program Implementation Review Report, which states: 'Consider whether the background screening procedures and criteria could be adjusted to account for a meaningful review in a variety of cases (e.g., newly formed entities, publicly traded companies, companies in jurisdictions that do not provide readily available information).'" SubPro Final Report.

NCSG notes that work was done on this section by the IRT to create an addition of a section related to *publicly traded companies*, which benefits larger enterprises, but **no real work appears to have been done to create the real** and clear flexibility needed in the cases where applicants would need some flexibility, such as **"newly formed entities"** and particularly **"companies in jurisdictions that do not provide readily available information." This is an oversight of the IRT that we respectfully and with great dismay, submit can and will** affect underrepresented countries and communities in substantial ways. The only phrase that gives some flexibility to the process, which is "in the absence of exceptional circumstance", seems deeply insufficient to address the concerns that background screening could exclude applicants because of an exaggerated formalism or not taking into account bureaucratic barriers that underrepresented organizations could find.

The very entities ICANN and the ICANN Community want most to apply in the next round - the diversity we are seeking to achieve, and the gaps we are hoping to fill - lie in two key types of entities that the SubPro Working Group called on the IRT to define and create specific implementation rules to protect, namely:

- **newly formed entities," and those organizations**
- **"in jurisdictions that do not provide readily available information."**

We call on the IRT to create these rules and equivalencies *as soon as possible, and in all events for this next and upcoming rounds of New gTLDs* to achieve the clear language and purpose and goals of SubPro Recommendation 22.4 for all entities named, not only the world's largest. Going forward as currently written will harm the broad and inclusive goals of the section and make the disparities far

worse, not better – counter to the intents of SubPro, the Board and the larger ICANN Community.

On a related note, the IRT, while engaged in this review and revision task, should provide flexibility also for noncommercial organizations and indigenous peoples which, consistent with SubPro Final Recommendation 22, may not look like US non-profit organizations (educational and charitable US non-profits being classified under a section of the US tax codes), but are nevertheless important and legitimate organizations whose applications we are seeking and have committed to fairly reviewing and evaluating. We call on the IRT to write express rules for the Background Screening of the broad and international range of organizations that ICANN hopes will apply for the Applicant Support Program (ASP). It would be utterly unfair and disheartening for these entities to be accepted into the ASP only to be disqualified on technicalities in the Background Screening.

Overall, NCSG urges the IRT to return to draft the details of SubPro Final Recommendation 22.4 for smaller and international entities, peoples, and tribes, just as it did for publicly traded companies.

 3) Is the proposed Next Round Applicant Guidebook language for String Similarity Review (Topic 24: String Similarity Evaluations) consistent with the relevant SubPro Final Report recommendations?

 (_) Yes

(X) No

 If no, please explain

There is a slight variation in the definition of "similar" between the proposed Next Round Applicant Guidebook and the relevant SubPro Final Report recommendation. In the proposed Next Round Application Guidebook section on "Topic 24: String Similarity Evaluations", "'Similar'" is defined as "**strings so visually similar that they create a probability of user confusion if more than one of the strings is delegated into the root zone.**" However, the September 2023 Board scorecard (dated 10 September 2023) defines the standard of similarity as meaning "**visually confusingly similar.**' While it is largely obvious that these mean the same thing, we

would recommend utilizing the same phrasing as that of the Board to ensure clarity and uniformity with the guidebook's application, while also avoiding any extensive interpretation of the concept of "string similarity", something that could negatively affect the diversity and numbers of applications.

Regarding the "exception for .BRAND strings" (section 1.4.9 on p.12), there is a sentence with a verb missing, which makes the section difficult to comprehend. After clarifying with ICANN staff, the sentence should read "...and this applied-for .BRAND gTLD does not clear String Similarity Review and is therefore unable to proceed…." This should be amended in the final text.

We are concerned with this exception as it can be applied in a way that discriminates against non-commercials/any applicants that do not qualify as .BRAND. As written, *only* those who qualify as .BRAND have the opportunity to reapply with another string whereas non-commercials/any applicants that do not qualify as .BRAND do not have the same opportunity. As such, we encourage the ICANN board to consider allowing other categories of applied-for gTLD strings - beyond just those applicants that qualify as a .BRAND - that do not clear String Similarity Review to be offered the opportunity to change their string.

4) Is the proposed Next Round Applicant Guidebook language for Internationalized Domain Names (Topic 25: IDNs) consistent with the relevant SubPro Final Report recommendations?

(X) Yes

(_) No *(if the form does not allow for further comments if we mark "yes", then we should mark "no")*

If no, please explain

Yes, but with a comment. The proposed language in the Next Round Applicant Guidebook for Internationalized Domain Names (IDNs) aligns with the SubPro Final Report recommendations, considering it:

- Ensures compliance with the Root Zone Label Generation Rules (RZ-LGR) for validating TLDs and their variants.
- Requires IDN TLDs to adhere to RZ-LGR and IDNA2008 standards, offering a clear process for applying for allocatable variants while excluding blocked ones.

- Provides guidance on how unsupported scripts can be integrated into future RZ-LGR versions, allowing collaboration with script communities for future applications.

NCSG asks for clarification and additional wording to ensure that these details are expressly included so they can be understood by and passed down to the full and broad public reading the Applicant Guidebook.

5) Is the proposed Next Round Applicant Guidebook language for Dispute Resolution Procedures After Delegation (Topic 33: Dispute Resolution Procedures After Delegation) consistent with the relevant SubPro Final Report recommendations?

(_) Yes

(X) No

If no, please explain

As laid out in SubPro Final Recommendation 33.2: For the Public Interest Commitment Dispute Resolution Procedure (PICDRP) and the Registration Restrictions Dispute Resolution Procedure (RRDRP), clearer, more detailed, and better-defined guidance on the scope of the procedure, the role of all parties, and the adjudication process must be publicly available.

NCSG respectfully submits that this section, *Dispute Resolution Procedures After Delegation*, needs more detail, discussion, and clarification. Far too much history, and recent events, are packed into two few words. The conciseness fails to provide readers from around the world - the ones we have promised the world we will engage in marketing and outreach to bring into the New gTLD Program - and thus creates an unfair benefit and knowledge base for those of us who have been with these ICANN policymaking processes for so many years.

NCSG calls for more explanation and details, just as the SubPro in its Final Recommendation 33.2 called for the PICDRP and RRDRP to be "clearer, more detailed, and better-defined guidance on the scope of the procedure, the role of all parties, and the adjudication process must be publicly available." (We note that this clarity, detail and clear guidance must apply to the "Trademark Post-Delegation Dispute Resolution Procedure, reviewed within the remit of the Review of All Rights Protection Mechanisms in All gTLDs PDP Working Group" and just as relevant to the consideration in this analysis, and clarity in this section of the Applicant Guidebook).

The text that explains the Dispute Resolution Procedures is too summarized, mainly referring to details in other sections. Even if those other sessions provide more details satisfactorily, which we do not know and cannot here approve, they lack a) clarity, b) details, and c) better-defined guidance on the scope of the procedures, the role of all the parties, and the process for making the adjudication process… publicly available."

We note there is not even a reference here for the basic and fundamental change to the Public Internet Commitments/ Registry Voluntary Commitments decision of the ICANN Board in June 2024, building on work throughout the year including community consultation in late 2023 and early 2024, including a panel in March 2024 The June 8, 2024, Board resolution, and its conclusions, *must be referenced here* clearly and with detail a) to achieve the clearly written goals of the SubPro Final Recommendation 33.1 and b) to avoid giving unfair information and advantage to only the ICANN Insiders who participated in the process, and not all of the future Applicants and Community around the world who we hope will benefit from these procedures.

We call for this section of the ICANN Report to specifically reference resolutions of the Board regarding PICs and RVCs (and directly affecting and limiting the scope of the PICDRP), including

- "Resolved (2024.06.08.08), the ICANN Board determines that ICANN should exclude from the Next Round RAs any RVCs and other comparable registry commitments that restrict content in gTLDs."
- "Resolved (2024.06.08.09), the Board directs the ICANN Interim President and CEO, or her designee(s), to commence the implementation of the SubPro recommendations related to RVCs and other comparable RA commitments, including the design and implementation of evaluation criteria and processes to effectuate this exclusion."

Overall, considering the specific recommendation made by the SubPro Working Group, providing some extra relevant information may be useful for Applicants and the Community, it is critical to provide more information here in this section on topics that could or could not be disputed under each procedure, exemplified by the Board resolution excluding content from RVCs.

We call for this section to be pulled back and reissued when additional details, proper guidance, and clarity are provided so we can review it together, and in the proper context.

6) Is the proposed Next Round Applicant Guidebook language for Registrar-Non-Discrimination / Registry Registrar Standardization (Topic 37:

Registrar Non-Discrimination / Registry/Registrar Standardization) consistent with the relevant SubPro Final Report recommendations?

(_) Yes

(X) No

 If no, please explain

A key element regarding the process of granting exemptions to the Registry Code of Conduct is missing from the draft section on topic 37 in the guidebook. **Although it is noted in the annex as an update to "Recommendation 37.1," the stipulation that "no exemptions shall be granted without public comment" is such an important element of the process that it is our NCSG recommendation that it be integrated directly into the relevant section of the text rather than as an item in the annex. We emphasize to the Board that public comment allows for more transparency and accountability in upholding registrar non-discrimination.**

We also note that increased transparency of ICANN and the Registry/Registrar Code of Conduct further supports the implementation of Work Stream 2 recommendations.

7) Is the proposed Next Round Applicant Guidebook language for Registrar Support for New gTLDs (Topic 38: Registrar Support for New gTLDs) consistent with the relevant SubPro Final Report recommendations?

 (x) Yes

(_) No

 If no, please explain

 8) Is the proposed Next Round Applicant Guidebook language for Root Zone Label Generation Rules (Topic 25: IDNs) consistent with the relevant SubPro Final Report recommendations?

 (_) Yes

(X) No

If no, please explain

9) Is the proposed Next Round Applicant Guidebook language for Closed Generics (Topic 23: Closed Generics) consistent with the relevant SubPro Final Report recommendations?

(X) Yes

(   ) No *(if the form does not allow for further comments if we mark "yes", then we should mark "no")*

If no, please explain

Actually yes with a qualification. **NCSG is pleased that consistent with the work of the stakeholders, the IRT has written: "Applicants should be aware that the ICANN Board has resolved that 'closed generic gTLD applications will not be permitted..." in upcoming rounds.**

But NCSG respectfully submits that we should go further. We should stop considering the possibility of "closed generics" in new gTLD rounds altogether. All answers point to a negative answer to whether we in the ICANN Multistakeholder Community can achieve "an approved methodology and criteria to evaluate whether or not a proposed closed domain is in the public interest,"

Too much attention has been spent on too narrow an issue. All points to a negative answer, considering the enormous level of effort, resources, and energy that were already dedicated to the issue, NCSG respectfully submits that ICANN should stop considering the possibility of "closed generics" in new gTLD rounds.