Topic 19: Application Queuing

Description of Difference: Substantive differences include the following:

- Added recommendation to equitably prioritize IDN applications, including a detailed formula if relatively high volumes of IDN applications are received.

#	Contributor	Comment	Notes	Leadership Comments	Completion Status
		Support Output(s) as written			
	The following contributors did not provide additional comments: NORID AS; Anthony Lee (Individual); Jamie Baxter (Individual); Thomas Barrett (Individual); NCSG; Swiss Government OFCOM; GoDaddy Registry; Brand Registry Group, Inc; Intellectual Property Constituency (IPC); PETILLION Law Firm; ccNSO Council; INTA; ARTICLE 19; GMO Brights Consulting Inc.; Global Brand Owner and Consumer Protection Coalition (GBOC); ALAC				
		Not ideal but willing to support Output(s) as written			
	The following contributors did not provide additional comments: Afnic; Internet DotTrademark Organisation Limited; Business Constituency (BC)				
		No opinion			
	The following contributors did not provide additional comments: Clement Genty (Individual); Wei Wang (Individual); Yi Zhang (Individual); Xiaodong Lee (Individual); Kun Liu (Individual); Internet Architecture Board; gTLDs Registries Stakeholder Group (RySG); dotBERLIN GmbH & Co. KG; Hamburg Top-Level-Domain GmbH; GeoTLD Group; Dotzon GmbH; Registars Stakeholder Group (RrSG); InfoNetworks LLC; Internet Governance Project				
		Do not support certain aspects or all of the Output(s)			
1	ZHOU, LiGuo (Individual)	**We do not support the implementation plan regarding only queuing for 125 IDNs out of first 500 Applications. We do not suggest that ICANN or the SubPro WG to use the 2012-round number as a base count or as a upper limit for queuing IDN applications in any application rounds. Prioritizing ALL IDN applications should be continued in the subsequent and future rounds until ICANN Board formally decides that it no longer considers IDN as a new gTLD category requiring prioritization and promotion.**	Prioritize all IDN applications.	Noted and Discussed. The formula places a huge emphasis on IDNs by not only ensuring it is the first 125 applications, but they are also in the pool of strings to be selected for the remaining 375 applications in the batch.	No WG action noted.
		New information or interests that the Working Group has not considered			
1	Afnic	**ICANN might consider grouping applications by common characteristics while establishing priority numbers, in order to increase processing efficiency and as such reducing delays. Applicants can be grouped in three categories: geographic names, brand names and generic names.** For instance, Brand TLDs are often used exclusively by their applicants, sometimes through a single registrant / registry model. Application for such TLDs could be simplified as they do not require as much guarantees as a generic TLD open for registration. Distinguishing different categories would strengthen ICANN in insuring "the principles of fairness, transparency and non-discrimination", helping address common issues in a more appropriate way. The evaluation process efficiency will be increased for both ICANN and applicants.	Group applications by geographic names, brand names and generic names.	This is a completely new mechanism not discussed.	No WG action noted.
2	WIPO	**The WG may wish to clarify the relationship between the filing window for Objections and the processing of applications on a rolling basis.**	Clarify relationship between Objections window and processing on a rolling basis.	Not sure what this means?	No WG action noted.
3	Internet DotTrademark Organisation Limited	An IDN variant TLD is an extension to the operation of an existing TLD. Registrants' need of the variant is already existing. And based on the limitations of IDN variant TLDs, the Evaluation Procedure may be simplified. Thus, we think I**DN variant TLD applications should be given a priority on the queue.**	Prioritize IDN variants.	Refer to ePDP?	No WG action noted.
4	ICANN org	**Affirmation 19.1:** ICANN org would like to seek additional clarity from the PDP WG about whether the Affirmation of the 2012 approach means the org is expected to use the identical in-person prioritization draw process in subsequent rounds. For example, **if an alternative randomization method would be permitted by applicable law, would this conflict with the Recommendation? What if the rules and regulations surrounding the prioritization draw used in 2012 have changed and are no longer viable?**	Clarify affirmation of 2012 implementation.	The Affirmation was on the prioritization Draw. If there are changes that still ustilizes the Draw (eg., in person or not) or the law changes, then those should be discussed during the IRT and/or if after the Guidebook with the SPIRT. Might need to do an affirmation with modification, but logistics left to IRT. Boil down to what MUST be in there. There is Implementation Guidance in 19.4 -- maybe need to tie this IG to the affirmation.	**ACTION ITEM: Modify the affirmation with that it is the prioritization draw but that the logistical details of the draw can be decided by the IRT. Tie the Implementation Guidance to the affirmation.**

Topic 20: Application Change Requests

Description of Difference: No substantive differences, but minor differences include the following:

- Recommends allowance of resolving string contention 1) through business combinations and 2) through string change for .Brand TLDs in limited circumstances.

#	Contributor	Comment	Notes	Leadership Comments	Completion Status
		Support Output(s) as written			
	The following contributors did not provide additional comments: Anthony Lee (Individual); Jamie Baxter (Individual); NCSG; Afnic; GoDaddy Registry; gTLDs Registries Stakeholder Group (RySG); Brand Registry Group, Inc; Dotzon GmbH; PETILLION Law Firm; ccNSO Council; Business Constituency (BC); ARTICLE 19; GMO Brights Consulting Inc.; ALAC			
		Not ideal but willing to support Output(s) as written			
	The following contributors did not provide additional comments: NORID AS; Thomas Barrett (Individual); ZHOU, LiGuo (Individual)			No WG action noted.
		No opinion			
	The following contributors did not provide additional comments: Clement Genty (Individual); Wei Wang (Individual); Yi Zhang (Individual); Xiaodong Lee (Individual); Kun Liu (Individual); Internet Architecture Board; WIPO; GeoTLD Group; Registars Stakeholder Group (RrSG); Internet Governance Project			No WG action noted.
		Do not support certain aspects or all of the Output(s) - .Brand change is still a .Brand			
4	Intellectual Property Constituency (IPC), supported by PETILLION Law Firm	Although the IPC supports the recommendations and implementation guidance under this Topic 20, we consider that **recommendation 20.8 is incomplete.** As is clear from the rationale for this recommendation, the working group intends that a change to the applied-for string for a .Brand TLD that meets the criteria identified in recommendation 20.8 will still qualify as a .Brand TLD, and thus be afforded the important protections of Specification 13. In order to ensure this intent is met, it should ideally be reflected in the text of recommendation 20.8 itself or, at a minimum, it should be included as implementation guidance to recommendation 20.8. It is insufficient to deal with this only in the rationale section.	.Brand TLD meeting criteria qualifies as .Brand TLD	JJN: I believe this was the intent of the recommendation, so if WG concurs, this is just to add clarity.	**ACTION ITEM: Make it clear in the recommendation that changing the string to a descriptor word that is not in the trademark could qualify for Spec 13.**
5	INTA	INTA fully supports the recommendations and implementation guidance but considers the following small amendment to the rationale for Recommendation 20.8 better reflects the intent of the recommendation and avoids misunderstanding in the implementation phase. This is necessary to safeguard the interests of brand owners and thereby necessary in order to ensure that this recommendation can be effective in addressing the issue the working group seeks to resolve. **Amend the last two sentences of this rationale to state: "The Working Group notes that when the .Brand applicant changes the applied-for string, the Working Group ~~anticipates~~ intends that the new string will also be considered a .Brand. During the implementation phase, further consideration should be given to whether any the changes which will be needed to Specification 13 criteria in this regard in order to meet this intent."** INTA also considers that this is, in fact, important **Implementation Guidance to recommendation 20.8** and should be reflected as such, rather than being buried within the rationale, where it is at risk of being overlooked.	.Brand TLD meeting criteria qualifies as .Brand TLD	Ditto	**ACTION ITEM: Make it clear in the recommendation that changing the string to a descriptor word that is not in the trademark could qualify for Spec 13.**
6	Global Brand Owner and Consumer Protection Coalition (GBOC)	GBOC supports the recommendations and implementation guidance on this Topic but suggests the following amendment to better reflect what we believe is the WG's intent: **"The Working Group notes that when the .Brand applicant changes the applied-for string, the Working Group intends that the new string will also be considered a .Brand. During the implementation phase, further consideration should be given to the changes which will be needed to Specification 13 criteria in order to meet this intent."** GBOC also considers that this is important **Implementation Guidance to recommendation 20.8** and should be reflected as such, rather than being captured only within the rationale, where it is at risk of being overlooked.	.Brand TLD meeting criteria qualifies as .Brand TLD	Ditto	**ACTION ITEM: Make it clear in the recommendation that changing the string to a descriptor word that is not in the trademark could qualify for Spec 13.**
		Do not support certain aspects or all of the Output(s) - Other concerns			
1	Thomas Barrett (Individual)	I would **allow applicants to revise their string request to avoid a string contention set.**	Allow applicants to revise string	Already resolved	No WG action noted.
2	Swiss Government OFCOM	While we support Affirmation 20.1 that a high-level, criteria-based change request process should be maintained, as was employed in the 2012 application round, we consider that **the existing criteria are too vague and general, especially since no clarification seems to be provided by ICANN org's "Change Request Determination Criteria"** which refers to "Explanation - Is a reasonable explanation provided?". We are of the opinion that **these criteria should be clarified or at least delimited by recommendations**, which would allow the criteria-based change request process to gain in transparency, predictability and legal certainty.	Existing criteria too vague	Already resolved	No WG action noted.
3	dotBERLIN GmbH & Co. KG and Hamburg Top-Level-Domain GmbH	We do not support "Recommendation 20.8: The Working Group recommends allowing .Brand TLDs to change the applied-for string." **To avoid gaming, there should be no opportunity to change the applied-for string,** no matter for which category of strings or carve out an exemption for .brands that is not appropriate.	Don't allow applicant to revise string	Noted as only comment opposing .brands being allowed to change string.	No WG action noted.
7	InfoNetworks LLC	**Concerned about how material changes to applications, e.g. mergers/JV, potentially impact the ability of the GAC to issue early warning advice, and third parties the ability to file objections. In principle the recommendations of the SubPro Group are well intentioned, however, I think further community input and consideration during the drafting of the Applicant Guidebook will be required.**	Concerns about impact of application changes on GAC early warning/third party objections	Noted. No need to discuss.	No WG action noted.
		New information or interests that the Working Group has not considered			
1	Brand Registry Group, Inc	**Recommendation 20.8 should be clarified to confirm that where a .Brand TLD changes the applied for string in these circumstances the new string will qualify as a .Brand under Specification 13.** This is referred to in the rationale for recommendation 20.8 but not in the recommendation itself which appears inadequate and/or risks later misunderstanding.	Related to comments above in sub-section ". Brand change is still a . Brand"	See above on .brands	**ACTION ITEM: Make it clear in the recommendation that changing the string to a descriptor word that is not in the trademark could qualify for Spec 13.**
2	ICANN Board	The Board notes **Recommendation 20.6:** "The Working Group recommends allowing application changes to support the settling of contention sets through business combinations or other forms of joint ventures. In the event of such a combination or joint venture, ICANN org may require that re-evaluation is needed to ensure that the new combined venture or entity still meets the requirements of the program. The applicant must be responsible for additional, material costs incurred by ICANN due to re-evaluation and the application could be subject to delays." Also Recommendation 20.8: "The Working Group recommends allowing .Brand TLDs to change the applied-for string as a result of a contention set where (a) adds descriptive word to the string, (b) the descriptive word is in the description of goods and services of the Trademark Registration, (c) such a change does not create a new contention set or expand an existing contention set, (d) the change triggers a new public comment period and opportunity for objection and, (e) the new string complies with all new gTLD Program requirements." T**he Board acknowledges that recommendations 20.6 and 20.8 may lead to more flexibility, permitting applicant changes while also increasing the complexity of future new gTLD procedures. We note that this increase in flexibility and complexity is likely to lead to higher costs beyond applicant fees and result in possible delays, thereby making subsequent rounds potentially less predictable.**	Increased flexibility could lead to higher complexity and costs	Noted.	No WG action noted.
3	ICANN org	**Recommendation 20.4:** The comment period associated with Application Change Requests is different from the traditional Public Comment period associated with policy development. **To avoid confusion with the more commonly understood Public Comment period, ICANN org suggests referring to the Application Change Request comment period as an "operational" comment period,** e.g., a 30-day comment period giving the public the opportunity to comment on any change to a public part of an application, including PICs. The PDP WG may wish to note for reference also that changes made to private sections of the application during the 2012 round were noted on the change log but the information was not made public and no comment was collected. **Recommendation 20.6:** Regarding allowing application changes to support resolution of contention sets, has the PDP WG considered allowable scope for these changes (e.g., community status changes), or how applicants may demonstrate that the requested change would support resolution of a contention set? ICANN org notes that in the 2012 round, changes to Community Priority Evaluation questions were prohibited in order to protect the integrity of the evaluation scoring process. **Please also refer to the ICANN Board comment on this topic.** **Implementation Guidance 20.7:** The PDP WG requests that ICANN org explore "the possibility of allowing applicants to request that the evaluation of their own application is delayed by 60-90 days so that they can submit an applicant change request on the basis of business combination or other form of joint venture. This request would need to be made prior to Initial Evaluation of the application." ICANN org notes that granting a delay to file a change request for a limited number of applications might delay the processing of other applications (e.g., other members of a contention set not party to the change request). **Recommendation 20.8:** The PDP WG recommends "allowing .BRAND TLDs to change the applied-for string as a result of a contention set where: (a) The change adds a descriptive word to the string, (b) The descriptive word is in the description of goods and services of the Trademark Registration, (c) Such a change does not create a new contention set or expand an existing contention set, (d) The change triggers a new Public Comment period and opportunity for objection and, (e) The new string complies with all New gTLD Program requirements." **ICANN org has identified a set of questions regarding this Recommendation:** 1. Would ICANN org need to evaluate an application first to determine if it qualifies as a .BRAND TLD? Currently, applicants for .BRAND TLDs submit an application for Specification 13, which is posted for review and comment by the community for 30 days. Would applicants first obtain status as a .BRAND TLD prior to a potential string change? 2. There are cases in which the Trademark Registration may be in another script or language from which the TLD was applied. Would the addition of "descriptive words" refer to a single additional descriptive word, or could it include multiple descriptive words? Could an added descriptive word or words include translations/transliterations? 3. Criterion (e) states that a change to an applied-for string as a result of a contention set must "[comply] with all New gTLD Program requirements." ICANN org understands this to mean that the new applied-for string would need to pass evaluation and objection phases as did the original applied-for string. Is this a correct understanding? 4. ICANN org notes that the .BRAND applicant must hold a Trademark Registration for the proposed TLD that is identical to the textual elements of the applied-for string, per Specification 13 of the Registry Agreement. Unless the proposed descriptive word was a part of the Trademark Registration, the applicant would not be able to qualify as a .BRAND TLD after changing its applied-for string. ICANN org also notes that the Application Change Request process is an operational function designed to manage application information and impacts several aspects of the evaluation process. As the types of change requests increase, the overall complexity of the Application Change Request process will also increase. This will impact applicants, ICANN org, and the overall application processing timeline. Please also refer to the ICANN Board comment on this topic.	Terminology of Public Comment period; scope for changes; processing delays; other questions	- Change "comment period' to something that is not associated with policy public comment period - Are there certain areas of application that should not be able to be changed (eg., answers relating to CPE) - The .Brand evaluation would need to occur during the application phase in order to allow . brands to change their strings. (a) Should ICANN just do them for the .brands that want to change their strings or (b) should there be a check box on the application to be considered to be a . brand during the actual initial evaluation? If (b), we would need to work in process. - .brand string change must be in same language/script as the TLD string and in Trademark Registration provided. - #3 - yes - change to the ICANN wording? - #4 - Understood, but this is an exception to the exact textual match and will only be used in rare occasions. This is no more complex than or controversial than TM+ 50 rule, so there is experience in applying this.	**ACTION ITEM: Revise the term "comment period" to a term that is not associated with a public policy comment period.** **ACTION ITEM: Clarify that .brands that want to change their strings will need to be evaluated.**