The Registry Stakeholder Group (RySG) thanks the GNSO Council for inviting a response on this important topic.

As a foundational matter, we believe that the existing policy framework set forth in the 2007 GNSO Policy for the Introduction of New gTLDs (“GNSO Policy”) is generally sound. The introduction of new gTLDs in the 2012 round has encouraged innovation, improved competition and provided consumers with more choice in domain name registration, with few of the negative effects anticipated by some parties. Given the expectation in both GNSO Policy and the Applicant Guidebook that additional gTLDs would be introduced through a predictable processes going forward, only work that is required to address significant deficiencies in either policy or implementation should be considered as prerequisites to the introduction of additional gTLDs.¹

The RySG has identified a small number of initial areas in which the GNSO Policy either did not address an issue that arose during the 2012 round, or where it became clear that the GNSO Policy needed to be revised. These are:

1) **Closed Generics.** Neither the GNSO Policy nor the final Applicant Guidebook for the 2012 round (“Guidebook”) directly address the question of whether registrants in a gTLD representing a generic word may be restricted to a single company or its affiliates, commonly referred to as a “closed generic.” Some applicants participated in the round with the intent to operate gTLDs in this manner. By virtue of a Board Resolution² and a requirement in Specification 11 to the New gTLD Registry Agreement, registry operators may not operate closed generic gTLDs. The Board has suggested that the GNSO develop a formal policy recommendation on this topic and the RySG agrees that it is important to resolve this matter through policy development prior to the introduction of additional new gTLDs.

2) **Distinct registry agreements for exclusive-use TLDs.** Current GNSO Policy makes reference to a single Registry Agreement, suggesting that all new gTLD contracts would follow the same form.³ The standard registry agreement is modeled on legacy gTLD arrangements, in which a TLD is made available for registrations by third parties.

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¹ As stated in the implementation guidance for the GNSO Policy, “This policy development process has been designed to produce a systemised and ongoing mechanism for applicants to propose new top-level domains. The Request for Proposals (RFP) for the first round will include scheduling information for the subsequent rounds to occur within one year.” Similarly, the final version of the Applicant Guidebook affirmed that “the goal is for the next application round to begin within one year of the close of the application submission period for the initial round.” While the specific one-year target has not been met, we believe that the principle a timely, systematic, and ongoing mechanism remains a key element of the initial recommendations.

² Resolutions 2014.03.26.NG01 - 2014.03.26.NG02 available at https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-03-26-en affirmed a lighter weight solution for exclusive-use TLDs through the introduction of Specification 13, and an amendment to Section 2.9(a) for qualified registries.

³ Principle F states that “a set of operational criteria must be set out in contractual conditions in the registry agreement to ensure compliance with ICANN policies.” While the question of supporting multiple forms of the Registry Agreement was not specifically referenced in the GNSO policy, the status quo suggests that a single form will be used.
However, many of the TLDs delegated in the 2012 round are restricted to use by a single entity, generally the registry operator or an Affiliate. Many of the provisions of the standard registry agreement designed to protect registrants are not beneficial in such TLDs, and complicate the operation of the TLD for both ICANN and the registry operator without any clear benefit. The RySG believes that the current PDP should update the GNSO Policy to allow ICANN to provide separate, appropriate contracts for registry operators that offer SLD registrations to the public versus those that limit registrations to a single entity and its Affiliates. We note that addressing this issue may require revisions to multiple elements of the GNSO Policy, including the requirement that registries “may not discriminate among [ICANN] accredited registrars.” This and other elements of the GNSO Policy may not be applicable in contexts where there are no third party registrants in the TLD.

3) Geographic Names. The RySG notes that there is ongoing discussion within the ICANN community on the topic of geographic names as TLDs. The RySG has not reached agreement on whether the current GNSO Policy as reflected in Recommendations 1 and 5 and the Reserved Names WG, as well as the implementation reflected in the AGB, provide both sufficient certainty and predictability for applicants and protection of geographic names consistent with international law. The RySG has also not reached agreement on whether revisions to the GNSO Policy are necessary in light of the experience of the 2012 application round. To the extent that the GNSO takes up this issue, any policy should continue to reflect the established consensus of the GNSO community that the scope of geographic names and protection afforded to them should be limited to those recognized under international law and that the process for recognizing them should be transparent and predictable for applicants.

We believe that the Subsequent Procedures PDP should focus its work in these areas and resolve these key policy questions as a first priority. Further work to improve the GNSO Policy could be completed in the future, but is not necessary to allow the delegation of additional gTLDs.

The RySG also believes that any subsequent gTLD application process should allow for more fulsome participation by the Global South. It is our understanding, however, that the Competition, Consumer Choice, and Consumer Trust Review Team (CCT-RT) intends to address this issue. We do not expect that proposals to increase participation from the Global South will require changes to the GNSO Policy, so while we acknowledge the importance of the

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4 In this context, we think of the notion of “Affiliate” somewhat broadly. For example, the definition set forth in Section 2.9(c) of the Registry Agreement, as follows: “Affiliate” means a person or entity that, directly or indirectly, through one or more intermediaries, or in combination with one or more other persons or entities, controls, is controlled by, or is under common control with, the person or entity specified, and “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities, as trustee or executor, by serving as an employee or a member of a board of directors or equivalent governing body, by contract, by credit arrangement or otherwise.”
topic we do not believe it needs to be a gating item prior to the introduction of the next application window.

Importantly, this makes completion of the CCT-RT study a gating item for the initiation of a future round. In addition, WP3 of the Continuous Data-driven Analysis of Root Server System Stability (CDAR) is required in order to confirm that the introduction of new gTLDs in 2012 had not adverse impact on the DNS root. Other review procedures should not be treated as gating. We believe that the initial goal of opening a future process within one-year of the close of the 2012 round demonstrates that any further reviews were not intended to gate a future round.

In addition to considering what elements of the GNSO Policy were likely to require change, the RySG membership identified areas where we believe that the existing GNSO Policy was sound but that operational improvements should be pursued prior to the introduction of additional gTLDs. Based on registry discussion, the following four topics were identified as the most critical issue areas:

- **Objection processes**, including fee issues, the Independent Objector process, and procedures for the consolidation of objections;
- **String procedures**, including the String Similarity Review and the standards applied in String Objections, particularly those that resulted in perceived inconsistencies;
- **Communities**, including whether specific changes need to be made to the Community Objection process and how we can better encourage participation from bona fide communities; and
- **Application procedures**, including ensuring that procedures are set prior to the opening of an application window and procedures to streamline the evaluation of registry backends.

Importantly, the RySG does not believe that these represent the only issue areas where implementation processes could be improved. Rather, they represent the subset were procedures were sufficiently flawed that process improvements should be considered in advance of a future application process. Additional implementation changes could be proposed on an ongoing basis and addressed by the community including ICANN staff, without blocking or delaying the initiation of a future application process.

The RySG has convened workstreams devoted to each of these issue areas, comprised of members with direct experience with the above processes, tasked with enumerating the most critical problems encountered and potential solutions that could be effected without recourse to policy change. We intend to provide this guidance in a follow up correspondence to the ICANN Board and the GNSO Council in the coming weeks.

We believe that this bifurcated approach would expedite progress towards future application process, in support of the existing policy of supporting the predictable and timely introduction of new gTLDs. To support this method, a streamlined implementation track should be initiated, to address the critical implementation issues. We recommend the following steps:
1. Publish an updated version of the Applicant Guidebook, redlined to reflect the areas where changes occurred following the publication of final Applicant Guidebook, while the application process was ongoing. We acknowledge that ICANN staff has already initiated the process of reviewing how its internal procedures and systems could be improved to facilitate a future round as part of the New gTLD Program Implementation Review. To the extent that these procedures have been finalized and are relevant to the guidebook, they could be reflected at this stage.

2. Prioritize the review of the implementation issues identified in this letter and ensuring active participation of ICANN staff in such a review.

3. Ensure that robust community review and input procedures were provided, both for the policy recommendations put forth by the GNSO PDP Working Group, and the recommended implementation changes.