



# Comment on New gTLD Program Safeguards to Mitigate DNS Abuse

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**Business Constituency Submission**

**GNSO//CSG//BC**

## Background

This document is the response of the ICANN Business Constituency (BC), from the perspective of business users and registrants, as defined in our Charter:

The mission of the Business Constituency is to ensure that ICANN policy positions are consistent with the development of an Internet that:

1. promotes end-user confidence because it is a safe place to conduct business
2. is competitive in the supply of registry and registrar and related services
3. is technically stable, secure and reliable.

## New gTLD Program Safeguards to Mitigate DNS Abuse

The BC supports review and reporting on the state of DNS abuse. We acknowledge the methods for measuring the effectiveness of safeguards against DNS abuse that were implemented with new gTLDs, and we support ICANN providing an overview of the state of DNS abuse, discussing options for measuring the effectiveness of safeguards put in place to mitigate DNS abuse in new gTLDs, and proposing a research model to scientifically assess the effectiveness of safeguards.

We agree that a report to assist the CCT-RT in examining safeguards in depth, looking at ways to measure their effectiveness, and naming and executing a research model for scientific assessment of their effectiveness is critical. The narrowly drawn focus of this draft report, however, proposes a research effort that falls significantly short of our shared goals.

The BC requests that ICANN revise this draft to fully address safeguards aimed at mitigating potential abuse as the gTLD space expands—and not simply examine nine recommendations contained in a 2009 “solicitation for comments on a proposal to add specific measures to the new gTLD registry agreement.”

Specifically, we ask that ICANN carefully consider and incorporate abuse mitigation-related elements from the following documents and programs:

- 2013 RAA (including relevant changes from the 2009 RAA recorded [here](#), such as those relating to privacy/proxy, WHOIS accuracy/verification, abuse point of contact, and response to LEA requests)
- Uniform Rapid Suspension System and UDRP (involving new gTLD abuse-related activities)
- New gTLD registries’ abuse policies and activities
- Relevant policies and activities of registrars selling new gTLDs
- ICANN Compliance
- Data from industry collaboration and information sharing used to identify new gTLD domain names registered or used for abusive purposes (please contact the BC if you need assistance with this)
- New gTLD Applicant Guidebook
- WHOIS Policy Review Team Final Report and Staff implementation plan
- New gTLD Program Explanatory Memorandum, "Mitigating Malicious Conduct," 3 October 2009

- Registration Abuse Policies Working Group Final Report, May 2010
- ICANN Operations and Policy Research, "Reviewing New gTLD Program Safeguards Against DNS Abuse," teleconference proceedings, 28 January 2016
- DNSSEC deployment in new gTLDs

In addition to the list above, there may be other policy documents that are relevant to DNS abuse mitigation. The BC asks staff to cast a wide net to find prior work that can inform this present effort.

The BC has a long and well-documented history of supporting safeguards against DNS abuse. You may find our past public comments useful in re-drafting this report<sup>1</sup>. These comments include BC positions on relevant items such as WHOIS and privacy/proxy policies and practices, UDRP, new gTLD Applicant Guidebook, new gTLD Registry Agreement, GAC Safeguard Advice for new gTLDs, registration abuse policies, amendments to the 2009 RAA, findings of the Registration Abuse Policies Working Group related to violations and misuse by contracted parties, including its recommendation of enforcement by ICANN's Contractual Compliance department—as some examples. Regarding the latter, note that we also support the recommendation that non-binding best practices be developed via a community process to aid registrars and registries addressing DNS abuse.

The BC urges ICANN to take into account the important policy and programmatic activities related to abuse mitigation and the new gTLD program raised during the many years of debate and development that resulted in the New gTLD Applicant Guidebook.

In addition to the points made in the report and ancillary documents, the BC is also interested in periodic examination of relevant safeguards to determine if one or more needs to be added, or if an existing safeguard should be removed or re-worded based on a change in the gTLD environment--new types of bad actors, new actions by bad actors, new technology, etc. The same expert groups polled for naming the original nine proposed safeguards noted in the draft report should be involved in review and any edits to this list, in addition to all GNSO constituencies.

Regarding elements in the current methodology, several can be improved, as they may limit the study's ability to effectively establish causal relationships between certain practices and the corresponding abuse. For instance, the mechanisms proposed to measure the effectiveness of each proposed safeguard simply examine whether the safeguard was fully adopted within the New gTLD Program without attempting to measure the direct impact on the rate of abuse.

Similarly, in determining the effectiveness of abuse safeguards for new gTLDs versus legacy TLDs, the studies do not account for potential variables such as stronger registry policies, voluntary practices, differences in price, or ecosystem trends related to security. Moreover, the BC would like to see the

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<sup>1</sup> See BC Positions at <http://www.bizconst.org/positions-statements/> .

In particular, see BC comment on GAC Safeguard Advice, Dec-2014, at <http://www.bizconst.org/wp-content/uploads/2014/12/BC-comment-on-safeguards-for-Category-1-gTLDs.pdf>

Also see BC evaluation of GAC Safeguards, Jun-2013, at <http://www.bizconst.org/wp-content/uploads/2014/06/BC-Comment-on-GAC-Advice-for-new-gTLDs-FINAL41.pdf>

definitions of abuse clarified and for the report to highlight those forms of abuse that fall within the scope of ICANN's remit.

For these reasons, the BC strongly supports the continued development and refinement of the definitions of DNS abuse and the safeguards for combating such abuse.

The BC also looks forward to the opportunity to comment on the topic of additional safeguards and eagerly awaits a substantially revised report on New gTLD Program Safeguards to Mitigate DNS Abuse, and related research.

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These comments were drafted by Angie Graves, Andy Abrams, and Denise Michel, with contributions from Olga Yaguez and Chris Wilson.

This document was approved in accordance with the BC charter.