

23 July 2024

Nicolas D. Caballero
Chair, ICANN Governmental Advisory Committee (GAC)

RE: ICANN Board Proposed Path Forward for the GAC Consensus Advice in the ICANN80 Kigali GAC Communiqué

Dear Nicolas,

The Board appreciates the opportunity to conduct the GAC Communiqué Clarifying Call (“clarifying call”) with the GAC on Monday, 15 July 2024 on the [ICANN80 GAC Consensus Advice](#). The Board also looks forward to discussing the issues the GAC raised in its Follow-up on Previous Advice in the ICANN80 Communiqué¹ at the earliest opportunity. The Board plans to schedule a call with the GAC on these issues in September 2024.

With respect to our discussion on Monday, the Board shares the GAC’s concern that the Applicant Support Program (“ASP”) should serve a robust and diverse pool of applicants. The Board also shares the GAC’s commitment to the program’s timely launch to allow sufficient time for successful candidates to prepare for the opening of the Next Round application submission period. I believe our productive conversation clarified GAC and Board concerns and aspirations in this context and that the Board and GAC are closely aligned on the overarching principles.

To this end, I am writing to provide an update on the Board’s proposed path forward for the Consensus Advice in the ICANN80 Kigali GAC Communiqué, focusing on the proposed Board actions to take place during the 29 July 2024 Board meeting. As set forth below, the Board plans to accept some of the ICANN80 GAC Consensus Advice and to initiate the Bylaws-mandated process to try to reach a mutually acceptable solution to our concerns about other items. To that end, we hope to work with the GAC to agree on measures that will address some of the GAC concerns without causing delays to the ASP or Next Round timelines.

A key aspect of this approach is that ICANN’s engagement team will, beginning in early August, provide detailed information about its outreach and engagement plan for the ASP, which includes partnering with members of the GAC from underserved countries and regions. The Board understands that the lack of detailed and concrete information about outreach and engagement to date has heightened the GAC’s concerns regarding the risk of possible inequitable distribution of applicant support funds. Accordingly, engagement team leaders will share their regional and country-level targeting plans from early August and will confer with

¹Applicant Support Program (ASP), and Urgent Requests for Disclosure of Registration Data; as detailed on pages 11-12 of the ICANN80 Communiqué.

individual GAC members to seek input on efforts to reach potential applicants. Beginning 10 September 2024, the team intends to provide public, monthly progress reports on the results of outreach activities, including metrics of activities conducted and outcomes, representing an opportunity to solicit further advice and feedback from GAC and other ICANN community members supporting ASP outreach efforts. Additional information will be provided in a series of [webinars](#) beginning 30 July 2024.

In addition, the Board agrees with suggestions made by GAC members recommending greater transparency regarding applications for support and the development of a mid-course evaluation of the geographic diversity of applications for support in order to determine whether additional support funds are likely to be needed to achieve our diversity goals. The Board intends to propose an approach to address these suggestions in early September.

The Board also is planning for a targeted, focused, and virtual Board-GAC consultation process in September 2024. The aim of this consultation will be to identify a mutually agreeable solution that addresses the GAC’s concerns to the maximum extent possible without requiring changes to the ASP Handbook, as any such changes would require additional round(s) of Implementation Review Team (“IRT”) discussions and public comment, as well as likely changes to underlying processes and systems.

Outline of Proposed Path Forward for ICANN80 GAC Consensus Advice:

§1.a.i The GAC advises the Board: To take final decisions on successful Applicant Support Program (ASP) applicants, who applied within the twelve month time period, at the conclusion of that period as opposed to on a first come, first served basis. This would mean that no preference is given to applicants who applied earlier in the twelve month period, and will help ensure underserved regions are not at a disadvantage through the ASP.

§1.a.ii The GAC advises the Board: To invite members of the community with relevant expertise to monitor and participate in the ASP Application Evaluation process that will result in final decisions on ASP application outcomes. The GAC signals its willingness to fully participate in this process.

Proposed Board Action for 29 July 2024 Board meeting: The Board anticipates making a preliminary decision to take an action that is not consistent with GAC Consensus Advice Items §1.a.i and §1.a.ii. As a result, the Board would initiate the Bylaws-mandated process to attempt to find a mutually acceptable solution to GAC Consensus Advice

Items the Board does not believe it can accept.

- **Concerns:**
 - Advice item §1.a.i conflicts with the [Board-adopted](#) GNSO Guidance Process (“GGP”) for Applicant Support [Guidance Recommendation 9](#) as well as the New gTLD Subsequent Procedures (“SubPro”) Policy Development Process [Recommendation 17.1](#). There is no procedural path to un-adopt this advice.
 - As the GAC recognized when it accepted the GGP recommendation regarding the methodology for allocating limited support resources, establishing criteria to prioritize applications for support would be very difficult and subjective. No such criteria exists, and an attempt to develop consensus about appropriate criteria would materially delay the launch of the ASP to the material detriment of supported applicants. In addition, the Board is not confident that the community could develop consensus on appropriate prioritization criteria in any reasonable timeframe.
 - Implementation of this advice would compress – from 16 months to four months – the period successful applicants would have, after learning the result of their ASP application, to line up additional support, take advantage of pro-bono assistance, and prepare their new gTLD application. It is the Board’s view that this would materially compromise the goals of the ASP and affirmatively harm supported applicants.
- **Bylaws-mandated Consultation:**
 - The Board plans to initiate the Bylaws-mandated consultation, as set out in Bylaws Section 12.2(a)(x), “to find a mutually acceptable solution” to address the GAC’s concerns without substantive changes to the current draft of the ASP Handbook or deviation from any Board-adopted recommendations.
 - In order to maintain the ASP launch timeline in November 2024, the Board would like to work with the GAC to complete this consultation by 20 September 2024.
 - The Board proposes to schedule a series of consultation calls with the GAC in the week of 16 September 2024. This timeline will allow the Board and GAC to complete any necessary internal discussions before the consultation starts.
- **ASP Handbook:**
 - As discussed with the GAC during the Board-GAC Clarification Call on 15 July 2024, the Board plans to instruct ICANN org to publish the ASP Handbook in August 2024, with the caveat that the document will not be final until after the GAC-Board consultation is completed.
 - Board adoption of the ASP Handbook, which is a prerequisite for the launch of the ASP, would take place following completion of the consultation.
- **The Support Application Review Panel (“SARP”):**
 - ICANN org will continue its efforts to identify and negotiate an agreement with a

- third-party vendor for the SARP to evaluate ASP applications.
- Completing the GAC-Board consultation by 20 September 2024 will allow for the possibility to conclude negotiations and contracting without impacting the current timeline.
- **Preparations for ASP Launch:**
 - ICANN org will continue its preparations, as planned.

§1.a.iii *The GAC advises the Board: To initiate a facilitated dialogue, involving representatives from the GAC, GNSO and the ALAC, to assess the feasibility of leveraging (including contracting and financing the services of) a platform to which new gTLDs, supported through the ASP, could move to eventually operate their own back-end services.*

§1.a.iv *To develop a report outlining the results and outputs of the Engagement and Outreach Plan according to the stated timeline i.e.*

- *May 2024: Launch Awareness Campaign (including priority outreach to underserved regions).*
- *June 2024 (ICANN80): Stakeholder Consultations*
 - *Conduct stakeholder consultations to gather feedback on the ASP's design and eligibility criteria.*
 - *Engage with potential applicants to understand their needs, challenges, and expectations regarding the ASP.*
 - *Use feedback to refine ASP guidelines and communication materials.*

Proposed Board Action for July 2024 Board meeting: The Board does not intend to take action on the GAC Consensus Advice Items §1.a.iii and §1.a.iv in July 2024.

- **Next Steps:**
 - Regarding **§1.a.iii**, the Board appreciates the GAC proposal in its [correspondence dating 8 July 2024](#), stating that “for the referenced facilitated dialogue and stakeholder consultations to be independent from the ASP specifically, so as not to cause undue delay.”
 - Regarding **§1.a.iv**, the Board understands that the discussion during the clarifying call has already addressed some GAC concerns. The Board suggests

that our continued dialogue on this advice will be informed by ICANN org's plan to share concrete and detailed information about its outreach and engagement plan and conduct brainstorming sessions with GAC members to identify opportunities to leverage in-country relationships that GAC members may have to reach appropriate candidates for applicant support.

§2.a.i The GAC advised the Board: To prohibit the use of private auctions in resolving contention sets in the next round of New gTLDs.

Proposed Board Action for July 2024 Board meeting: Accept the GAC Consensus Advice Item §2.a.i.

Accepting this advice is consistent with the concerns the Board has previously expressed regarding the use of private auctions.

§2.a.ii The GAC advised the Board: To urgently initiate a focused community-wide discussion (including with the GAC and ALAC) on the resolution of contention sets, with a view to finding alternatives to private auctions and ICANN auctions of last resort, before the ICANN Board takes any action in a manner that may be inconsistent with the ICANN77 Washington D.C. Communiqué GAC Consensus Advice.

Proposed Board Action for July 2024 Board meeting: Accept the GAC Consensus Advice Item §2.a.ii

- **Next Steps:**
 - The Board plans to accept this Advice during its 29 July 2024 meeting, directing ICANN org to facilitate and moderate the community-wide discussion using two 90-minute webinars concluding no later than 23 August 2024 (see rationale in the risk factor below).
 - During its July 2024 meeting, the Board also plans to direct ICANN org to prepare a framework paper on private auctions and auctions of last resort and share the document with the community to inform the community-wide discussion.
 - During its Workshop from 6-8 September, 2024, the Board plans to review the outcome of the community-wide discussion and provide ICANN org with any necessary direction on the implementation for the resolution of contention sets.
 - The Board notes that it would be very helpful for the GAC to respond to our clarifying questions regarding the intended scope of this dialogue. Specifically, is

the GAC advising the Board to identify alternatives to ICANN auctions to resolve contention among purely commercial applicants? Or, on the other hand, does the GAC advise the Board to try to find alternative methods to resolve contention between commercial and non-commercial applicants only?

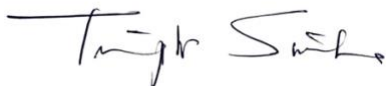
- **Risk Factor to AGB timeline and Next Round launch date:**
 - If the community-wide discussion does not conclude by 23 August 2024, the Board will not be able to take the outcome into account during its September Workshop. This would postpone the Board’s decision on contention set resolution, which in turn will likely impact [the timeline to complete the Applicant Guidebook](#) (AGB) and could also impact the launch date of the Next Round.

The Board acknowledges that as part of the ICANN80 Kigali GAC Communiqué clarification process, it set out a substantial number of clarifying questions for GAC consideration regarding the Advice. The Board believes that the Board-GAC discussion on 15 July substantially addressed our questions regarding the Applicant Support Program (**GAC Consensus Advice Items §1.a.i and §1.a.ii**). Based on that dialogue, and in order to adhere to the timelines set out in this letter, the Board plans to pass a resolution on the ICANN80 GAC Consensus Advice during its 29 July 2024 meeting. The Board understands that the GAC is unlikely to be able to provide responses to all questions in time for that meeting. While the Board welcomes any additional input the GAC may provide prior to its 29 July 2024 meeting, we do look forward to responses from the GAC delivered after that date as we believe those responses could help inform the GAC-Board consultation on ASP in September 2024, as laid out above.

The Board is aware that the proposed path is complex and has an ambitious timeline. The Board hopes the GAC agrees that this path is nevertheless the best available option to provide opportunities for the GAC’s concerns to be addressed while preserving the timeline for launch of the ASP.

The Board looks forward to engaging with the GAC in good faith to see if mutually acceptable solutions can be reached for the GAC Consensus Advice Items §1.a.i and §1.a.ii, as well as a productive community-wide discussion on the GAC Consensus Advice Item §2.a.i.

Sincerely,



Tripti Sinha
Chair, ICANN Board of Directors