

Issue

The GAC has at its disposal two GAC mechanisms to express public policy concerns in the 2012 New gTLDs Program included in the [Applicant Guidebook](#), in addition to other ICANN mechanisms, that were used by GAC members to express public concerns towards a specific domain name application or string : 1) GAC Early Warning and 2) GAC Advice. The *New gTLD Subsequent Procedures Policy Development Process Working Group* (Sub Pro PDP WG) is discussing whether these two mechanisms, GAC Early Warning and GAC Advice, can be improved while ensuring the legitimate concerns of governments, applicants and the wider community are effectively met in future rounds.

Background*GAC Early Warning*

Launched in 2012, a GAC Early Warning is an individual notice from GAC members to applicants when an application is seen as potentially sensitive or problematic by one or more governments. If an applicant receives a GAC Early Warning from a GAC member, they will have 21 days to notify ICANN if they would like to withdraw their application. If they elect to continue with the application, it is recommended that they get in touch with representatives from the relevant government(s) to address the concern raised in the warning. This mechanism provides the earliest notice of potential public policy concern and serves the interests of both applicants and the GAC members. It is not a formal objection, nor does it directly lead to a process that can result in rejection of the application. However, a GAC Early Warning should be taken seriously as it raises the likelihood that the application could be the subject of GAC Advice on New gTLDs or of a formal objection at a later stage in the process. During the 2012 Round of New gTLD Applications, GAC members issued 242 Early Warnings for 187 applications and more specifically to 145 strings.

GAC Advice

During the 2012 Round, the GAC issued Advice to the ICANN Board on public policy issues related to proposed applications. In total, 517 applications (27% of all applications) were subject of GAC Advice. The majority (491) were subject to advice on broad categories of strings, while 26 were subject to application specific advice, including 6 which the GAC advised should not proceed (.amazon and IDN variations, .halal, islam, .gcc.). A GAC consensus objection (a form of GAC Advice) is an additional mechanism in the event that the GAC Early Warning does not resolve the issue between the government(s) and the applicant. This form of GAC Advice creates a strong presumption that the application should not be approved.

GAC Input on GAC Early Warning and GAC Advice

The GAC provided [input in October 2018](#) regarding the [Initial Report on the New gTLD Sub Pro PDP](#) (July 2018). The GAC has made comments regarding the aforementioned issue (not limited to the below):

1. The GAC Early Warning and GAC Advice were useful mechanisms to identify applications that raise public policy concerns and should be an integral part of any future rounds;
2. The GAC is open to increasing transparency and fairness of GAC Early Warning and GAC Advice, including giving applicants an opportunity for direct dialogue with the GAC;
3. The GAC does not consider that the PDP should make recommendations on GAC activities, which are carried out in accordance with the ICANN Bylaws and the GAC's internal procedures.

Status of Issue

Subsequent Procedures PDP Working Group (currently in [Policy Development phase](#))

Following the PDP's [Preliminary Issue Report on New gTLD Sub Pro](#) (August 2015) suggestion that "Discussion may be needed around what types of guidelines might satisfy the intention of the GAC Advice process while supporting greater predictability for applicants", the Sub Pro PDP WG sought input in its [Initial Report](#) on "preliminary recommendations" and questions listed below (left column). Additionally, the status of discussion from the [analysis summary](#) of the Initial Report [public comments](#) is also presented below (right column).

Sub Pro PDP WG Possible Recommendation and Questions on GAC Early Warning & GAC Advice	Status of Discussions in PDP WG (as of 13 Sept. 2019)
<u>2.8.1.d.1:</u> GAC Advice must include clearly articulated rationale, including the national or international law upon which it is based.	Full Consensus with INTA suggest. to add authorized contact to discuss resolution
<u>2.8.1.d.2:</u> Future GAC Advice, and Board action thereupon, for categories of gTLDs should be issued prior to the finalization of the next Applicant Guidebook. Any GAC Advice issued after the application period has begun must apply to individual strings only , based on the merits and details of the application, not on groups or classes of applications.	Consensus with INTA seeing no objection to advice being issued against groups of TLDs which share common factors, but the TLDs to which the advice relates ought to be identified to allow for certainty for all parties
<u>2.8.1.d.3:</u> Individual governments should not be allowed to use the GAC Advice mechanism absent full consensus support by the GAC. The objecting government should instead file a string objection utilizing the existing ICANN procedures (Community/String Confusion/Legal Rights/Limited Public Interest Objections).	Full Consensus
<u>2.8.1.d.4:</u> The application process should define a specific time period during which GAC Early Warnings can be issued and require that the government(s) issuing such warning(s) include both a written rationale/basis and specific action requested of the applicant. The applicant should have an opportunity to engage in direct dialogue in response to such warning and amend the application during a specified time period. Another option might be the inclusion of Public Interest Commitments (PICs) to address any outstanding concerns about the application	Full Consensus with INTA suggesting to add contact details of person authorized contact to discuss resolution of the objection/warning
<u>2.8.1.e.1:</u> Some have stated that Section 3.1 of the Applicant Guidebook creates a “veto right” for the GAC to any new gTLD application or string. Is there any validity to this statement?	Full Consensus for removing ‘strong presumption’ that application would not proceed in case Advice is issued from language in AGB Section 3.1
<u>2.8.1.e.2:</u> Given the changes to the ICANN Bylaws with respect to the Board’s consideration of GAC Advice , is it still necessary to maintain the presumption that if the GAC provides Advice against a string (or an application) that such string or application should not proceed?	
<u>2.8.1.e.3:</u> Does the presumption that a “string will not proceed” limit ICANN’s ability to facilitate a solution that both accepts GAC Advice but also allows for the delegation of a string if the underlying concerns that gave rise to the objection were addressed? Does that presumption unfairly prejudice other legitimate interests?	

CCT Review Recommendations (Currently in [Implementation Phase](#))

The CCT Review Team recommended that: “As required by the October 2016 Bylaws, [GAC] consensus advice to the Board regarding gTLDs should also be clearly enunciated, actionable, and accompanied by a rationale [...]” that “ICANN should provide a template to the GAC for advice related to specific TLDs” and that the AGB “should clarify the process and timelines by which GAC advice is expected for individual TLDs.” See dedicated [GAC Scorecard](#) (23 May 2019) regarding CCT Review Recommendation 33 and the associated Board [action](#) (1 May 2019).

ICANN Org Assumptions ([as of 7 June 2019](#))

Assumption 1.2. “Policy implementation, readiness activities and operational processes will be completed prior to the opening of the next round” could possibly reduce the GAC’s “degree of flexibility to respond to emerging issues in this global space”, as flagged in the [Initial Report on the New gTLD Sub Pro PDP](#) (July 2018). Such responses were formulated in GAC Advice after the opening of the 2012 round of New gTLDs.