GAC/ICANN Board Consultation Call - ICANN80 Communiqué

16 September 2024 - 1600 UTC

In the spirit of issue spotting and candid information exchange, these high-level summary notes are intended to reflect the general nature of the discussion during the GAC/ICANN Board Consultation Call - ICANN80 Communique. Certain specific aspects of the meeting discussions are provided to enable understanding of the flow and context of the discussions.

_____

Contents

I.   Introduction

Tripti Sinha (ICANN Board Chair), welcomed GAC members and reiterated the goal of the consultation process between the Board and the GAC to, per the ICANN Bylaws, try to reach a mutually acceptable solution pertaining to GAC advice on Applicant Support Program (ASP) in New gTLDs. Tripti Sinha noted that the Board is hopeful to address GAC concerns and looks forward to this continued discussion with the GAC.

Nicolas Caballero (GAC Chair), welcomed participants to the call, noting the importance of the GAC-Board Consultation process, and providing background and context for GAC members on the Bylaws-mandated consultation process. Nicolas Caballero reiterated the goal of the consultation process between the Board and the GAC to, per the ICANN Bylaws, try to reach a mutually acceptable solution pertaining to GAC advice, and noted that per the process when such solutions are not possible, the Board will explain the solution it selects and the reason for not following such GAC advice.

II.   **Purpose and Remit of the Consultation[1]**

The Board-GAC consultation call on 16 September (16:00-17:00 UTC) is intended to satisfy the requirement in the [Process for Consultations between the ICANN Board of Directors ("Board") and the Governmental Advisory Committee ("GAC")](#) for the Board and GAC to have a Bylaws Consultation in the event that the Board determines, through a preliminary or interim recommendation or decision, to take an action that is not consistent with GAC advice. At issue in this Bylaws Consultation are items 1.a.i and 1.a.ii of the GAC's advice from its [ICANN80 Communiqué](#):

1.a.i. *"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 *"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."*

On 29 July 2024, the ICANN Board [resolved](#) to initiate rejection of these two items from the ICANN80 GAC Communique regarding the Applicant Support Program. This initiates the Board-GAC consultation process, during which the Board and the GAC will work collaboratively to potentially find a mutually agreeable solution that will address the GAC's concerns.

The Board noted in its [ICANN80 GAC Advice Scorecard](#) that it is concerned that making changes to the processing and evaluation of ASP applications may affirmatively harm ASP and supported applicants by significantly reducing the time they have to access resources and prepare a strong gTLD application.

The Board understands the GAC's concerns about prospective ASP applicants from under-served regions in developing countries being disadvantaged if they learn about the ASP later in the application submission period, as there is a risk that support funds may be exhausted. The Board notes that the [GNSO Guidance Process for ASP](#) was tasked with devising a methodology should demand exceed available ASP resources and developed three interdependent recommendations: that limited funding be allocated equally across all qualified applicants while not hindering the efficiency of the process; to designate a minimum level of support for all qualified applicants; and that the ASP should be flexible, predictable, and responsive to communicate results of the evaluation as early as possible in a transparent manner. The GGP guidance recommendations were [adopted by the Board on 8 June 2024](#).

The Board understands that the GAC would like a stronger Board commitment on the funding for supported applicants, should demand from qualified applicants exceed available resources or, short

---

[1] Content taken from the Board-GAC Consultation [Briefing Document](#).

of such a commitment, believes that applications should be evaluated at the end of the application period so as to ensure the availability of support from applicants in underserved regions in developing countries.

This consultation is intended for the Board and GAC to explore the extent to which there are other mutually agreeable measures to address the GAC's concerns while ensuring consistency with Board-adopted SubPro Final Report policy and GNSO Guidance Process recommendations.

III.   Possible Solutions

Becky Burr (ICANN Board) presented two items of advice that the Board has tentatively decided not to accept (advice item 1.a.i and 1.a.ii from the ICANN80 GAC Communiqué) and the potential solutions to address GAC concerns identified by the Next Round Board Caucus on New gTLDs for each item of GAC advice.

a. Advice 1.a.i (first come, first served basis)

For the first advice item, **Becky Burr** (ICANN Board) noted that the Board understands the GAC's concern to ensure applicants from underserved regions in developing countries would not be unable to secure applicant support based on earlier submitted applications from applicants in underserved areas of developed countries. Becky Burr noted that the Board reviewed the GAC's advice and engaged in discussions with the community, but ultimately does not believe that it is in the best interest of applicants, including those from developing countries, to wait for the 12-month period to expire before receiving evaluation results. She explained that the Board believes that applicants who are approved for applicant support may use ICANN's funding s commitment to secure additional assistance (financial and otherwise), and/or to utilize the pro bono service providers that will be made available. The Board therefore identified two potentially complementary approaches to mitigate the GAC's concerns.

- **Mitigating Approach 1:** Monthly reporting on geographic distribution of qualified applicants to inform quarterly adjustments in ASP Communications, Outreach & Engagement. Becky Burr noted this would entail closely monitoring where the applicants are coming from to understand whether there is a reason to change, increase or modify the outreach program.

- **Mitigating Approach 2:** Review geographic distribution after 20 qualified applicants (halfway mark) to determine adjustments to ASP Communications & Outreach or whether there is a need to explore seeking additional funding - which the Board has noted it will endeavor to find.

b. Advice 1.a.ii (community involvement in ASP evaluation process)

Becky Burr (ICANN Board) reviewed the second piece of advice relating to ASP that the Board is not inclined to accept, which was to invite members of the community with relevant expertise to

monitor and participate in the ASP evaluation process. She noted the Board's appreciation for the GAC's willingness to participate in this process. However, Becky Burr expressed the Board's concerns related to the implementation of this GAC advice item, specifically noting the likelihood of increased disputes regarding bias, conflicts of interest, etc. and resulting legal challenges over evaluations. To decrease risks of legal disputes and challenges to application evaluations, the Board intends to contract with an independent third party with relevant expertise to act as the standing application review panel. She indicated that ICANN org is in the process of conducting a request for proposal process.

IV.   Discussion

Becky Burr (ICANN Board) opened the meeting for discussion with GAC members, highlighting the Board's willingness to mitigate GAC concerns.

Tracy Hackshaw (GAC Universal Postal Union), thanked Becky Burr for the explanation and materials shared ahead of the meeting, noting he is the acting topic lead for ASP matters within the GAC. Tracy Hackshaw noted that Becky Burr's clarification that the two options proposed by the Board are complementary, i.e. not mutually exclusive, addresses some of the GAC's concerns. In preparation for the meeting, GAC members liaised on the GAC mailing list and expressed general support for merging the two approaches. Regarding substantive comments, Tracy Hackshaw noted that since the monthly reporting will be a regular marker this could be an opportunity to course correct on outreach throughout the application process, i.e. not waiting for 20 applications to be approved, to ensure that geographical diversification can occur.

Becky Burr, confirmed that the two approaches under discussion are consistent and not alternatives of each other. Furthermore, she noted that monthly reporting information would be public, so community members would see the geographic distribution of qualified applicants. Becky Burr noted that monthly reporting would inform any necessary adjustments in ASP communications and outreach to ensure outreach is effective.

Tracy Hackshaw noted that there may be the need to use the monthly reporting information in the event of specific trends being observed. For example, if in one month there are 10 applicants from one area, then ICANN org may need to take a closer look to identify next steps and make any adjustments.

Becky Burr confirmed the Board and the GAC are aligned on this topic.

Nigel Cassimire (Caribbean Telecommunications Union) expressed support for the points made during the consultation discussion regarding the use of monthly reporting to identify trends and see if any adjustments need to be made to outreach. Additionally, Nigel Cassimire expressed the need to potentially follow up in a timely manner with respect to any supplementary funding.

Nigel Hickson (GAC United Kingdom) agreed with the proposed way forward under discussion. Nigel Hickson noted that while successful applicants would be reported on, it may be useful to review unsuccessful applicants as well to identify potential trends and overlap in regions to provide feedback to ICANN org's Global Stakeholder Engagement Team since this may signify a misunderstanding of the process within that specific region.

Nicolas Caballero noted that GAC members on the call appear to be in support of the proposed compromise solutions, and encouraged any GAC members with questions or concerns to speak up.

Zeina Bou Harb (GAC Lebanon) indicated that the GAC's concerns go beyond ensuring that the Communications/Outreach Plans reach potential applicants in developing countries. Specifically, she noted that applicants from underserved regions in developing countries may need more time to prepare an application for support compared to applicants in underserved but developed regions. Zeina Bou Harb noted that applicants from underserved but developed regions with greater resources who are able to submit applications for support early on might exhaust the pool of available funding. She asked the Board for assurance that if these later-submitted applications were eligible, there would be a review of the budget.

Becky Burr responded that the Board discussed this and it is the Board's desire to fund at a meaningful level all qualified applicants. Becky noted that the Board has said it will do everything it can to secure additional funding. The Board would like to be able to fund every qualified applicant that comes in within the 12 month application window, but it cannot provide an open-ended commitment due to the Board's fiduciary responsibilities. Becky Burr noted that if additional qualified applicants are identified (i.e. beyond the 45 applications), the Board will endeavor to find additional funding.

Zeina Bou Harb underscored that it may be inconsistent with the process to announce that applicants have 12 months to apply for the ASP, but may subsequently need to be informed that applications have closed due to the maximum number of qualified applicants being reached. She noted this would not be positive for ICANN, nor for government representatives who would be contacted by applicants in these cases.

Tracy Hackshaw flagged there was a question raised in the Implementation Review Team (IRT) about broader support for applicants beyond a reduction in application fees and asked for additional information about other support, including post delegation support.

Kristy Buckley (ICANN org) provided additional information regarding available support to qualified applicants, including an applicant counselor who would be tasked with answering specialized questions about the application process as a complementary effort. The applicant counselor will be able to point applicants to available resources, including the list of pro bono service providers that are volunteering their services (e.g., technical, legal and language services). This information will also be grouped according to region and language to help qualified applicants identify services providers that meet their needs. Kristy Buckley further noted that ICANN org is reviewing available training materials to curate into a syllabus to build applicants' capacity to apply for a new gTLD and submit a strong application.

Martina Barbero (GAC European Commission) asked for further information on what profiles for organizations or individuals are being sought to apply for the application evaluation panel.

Kristy Buckley reiterated that the independent evaluation panel for ASP was identified as an option in the SubPro Operational Design Assessment (ODA) to avoid potential conflicts of interest and to make the review process as objective as possible. Thus far, ICANN org has received bids from different sectors including academic research institutions, large consultancies, and consortiums of consultants from around the world. The vendor to manage the ASP evaluation has not been selected yet.

Alfonso Besada (GAC Brazil) followed up on previous concerns and comments expressed about the one year timeframe for applications and concerns about running out of funds prior to the end of the 12-month period. Alfonso Besada asked whether a cadence for application submission could be established, for instance allocating up to 50% of the resources in the first 6-months, guaranteeing resources throughout the entire 12-month period.

Nigel Hickson and **Tracy Hackshaw** expressed sympathy with the approach suggested by Alfonso Besada but noted that this matter was thoroughly discussed within the GGP, and it was noted that it presented difficulties as it was seen to be "holding back" successful applicants.

Becky Burr reiterated that the monthly reporting on ASP Program Statistics[2] is intended to provide transparency on the geographic distribution of both applications submitted and qualified applicants. If a concern is identified within a reporting period, then adjustments to the Outreach and Communications Plan or the potential for additional funding would need to be explored. Becky Burr noted that the Board expected ICANN org to follow the Board-adopted GNSO Guidance Process (GGP) recommendations which indicated that applications should be processed as they come in. Potentially spreading out the funding allocations would therefore be inconsistent with recommendations submitted by the GGP which included cross community participation, including the GAC. Becky Burr noted the shared expectation that if there are more than 45 qualified ASP applicants, then the Board will have to look for additional funding.

Tracy Hackshaw expressed support for the proposed approach, while noting it does not address everything discussed by the GAC, the proposed approach addresses some of the underlying issues. There are still concerns about timing and the level of support to applicants which is unclear. As such, Tracy Hackshaw noted that it would be beneficial for the GAC to receive documentation about the applicant counselor and the capacity development. Tracy Hackshaw noted that GAC members would like to be able to help prospective applicants that indicate they are interested to apply for a gTLD by sharing materials or pointing them to available resources. He was encouraged to hear that the process to select an ASP evaluation vendor has considered diversity, which was an underlying issue from the last round, and GAC members wanted to ensure that the vendor is not applying developed-world principles to the evaluation.

---

[2] ASP Program Statistics: https://newgtldprogram.icann.org/en/application-rounds/round2/asp/stats

V. **Final Remarks**

Nicolas Caballero (GAC Chair) thanked the Board and GAC members for the discussion, noting there appears to be alignment between the two parties on the proposed path forward.

Becky Burr (ICANN Board) thanked GAC members for their participation, noting this was an effective discussion that resulted in a nuanced approach to address concerns on these advice items. Becky Burr noted that the Board and the GAC are aligned in the goal of receiving as many qualified applications, and expressed appreciation for the GAC's interest which has been helpful to the Board and ICANN org.

Tripti Sinha (ICANN Board Chair) thanked GAC members for their participation and underlined how effective the recent GAC and Board meetings have been for the consultative process. She noted that the GAC and the Board are reaching mutually acceptable solutions and the GAC is asking helpful questions which are proving that the process is working. Tripti Sinha encouraged GAC members to reach out should further questions be identified.

Nicolas Caballero thanked participants and adjourned the meeting.

VI. Meeting Participants

GAC

Nico Caballero, GAC Chair
Marina Flego Eiras, Argentina
Alfonso Besada, Brazil
Rida Tahir, Canada
Dania El-Ayoubi, Canada
Jose Hernandez, Cayman Islands
Thiago Dal-Toe, Colombia
Mislav Hebel, Croatia
Zdravko Jukić, Croatia
Finn Petersen, Denmark
Manal Ismail, Egypt
Martina Barbero, European Commission
Zeina Bou Harb, Lebanon
Adriano Daddario, Italy
Marco Hogewoning, Netherlands
Ibiso Kinglsey-George, Nigeria
Pär Brumark, Niue
Viacheslav Erokin, Russian Federation
Ana Maldonado, Spain
Jorge Cancio, Switzerland
Shelley-Ann Clarke-Hinds, Trinidad and Tobago
Gloria Katukuu, Uganda
Nigel Hickson, United Kingdom
Owen Fletcher, United States of America
Rodney Taylor, CTU
Nigel Cassimire, CTU
Tracy F. Hackshaw, UPU
Daniel Carletti, REGULATEL

ICANN Board

Tripti Sinha, ICANN Board Chair
Amitabh Singhal
Alan Barrett
Becky Burr
James Galvin
Danko Jevtović
Harald Alvestrand
Wes Hardaker

ICANN Org:

Amy Bivins
Andrew Chen
Bob Ochieng
Daniel Halloran
Erika Randall
Jamie Hedlund
Jared Erwin
John Jeffrey
Kristy Buckley
Marika Konings
Mary Wong
Michelle Bright
Sam Eisner
Samantha Mancia
Theresa Swinehart
Veni Markovski
Vinciane Koenigsfeld
Wendy Profit
Xavier Calvez

ICANN GAC Support Staff :

Benedetta Rossi
Daniel Gluck
Fabien Betremieux
Julia Charvolen
Robert Hoggarth