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ICANN72 GAC Discussion on Subsequent Rounds of New gTLDs

26 October 2021

Agenda

1. Introduction - GAC Chair
2. Recent Developments - GAC Topic Leads
3. Operational Design Phase (ODP) - ICANN Org
4. Review of GAC Priority Topics & Next Steps - GAC Topic Leads
5. GAC Input/Discussion on Potential GAC Advice
6. AOB

Recent Developments

- The GAC submitted a [collective comment](#) for the Board to consider prior to ICANN71.
- ICANN Board [approved](#) the initiation of an Operational Design Phase (ODP) relative to the [Sub Pro PDP WG Final Report](#)
- Details are outlined in the New gTLDs Subsequent Procedures ODP [Scoping Document](#).
- Expectation that the ODP will initiate in late 2021, with an expected duration - once launched - of approximately 10 months.
- Followed by 3 additional months for the ICANN Board's consideration on the Final Report Outputs.
- GAC members volunteered to create a small group for potential GAC input to ODP as required following an internal call for volunteers (Argentina, UK, US)



Next Steps and Operational Design Phase

Now that the ICANN Board has triggered an Operational Design Phase, next steps with varying timelines include:

- i. ICANN org to conduct ODP and deliver Operational Design Assessment (ODA) to the ICANN Board for consideration
- ii. ICANN Board consideration of the PDP recommendations as adopted by GNSO Council - opportunity for GAC Consensus Advice to the ICANN Board;
- iii. ICANN Board vote;
- iv. ICANN org (as directed by the Board) to begin implementation of the policy recommendations (which will likely include a revised Applicant Guidebook).

Upon completion of these successive steps ICANN org would be expected to start a new round of new applications for gTLDs sometime tentatively around 2023-2024, to be confirmed

Subsequent Rounds of New Generic Top-Level Domains (gTLDs)

Operational Design Phase, Policy/Implementation Challenges



26 October 2021

Global Domains and Strategy - ICANN org

SubPro ODP Background

What were the **milestones in the run up** to the SubPro ODP?

- On 18 February 2021, the GNSO Council approved the New gTLD Subsequent Procedures PDP [Final Report](#), which contains **over 300** Affirmations, Recommendations, and Implementation Guidance (collectively referred to as *Outputs*).
- On 24 March 2021, following the approval of the Final Recommendations, the GNSO Council transmitted its [Recommendations Report](#) to the ICANN Board for its consideration.
- From 22 April until 01 June 2021, a [public comment on the Final Report](#) was opened that resulted in [fourteen submissions](#) providing commentary on the PDP's process and outputs, as well as the future of the New gTLD Program.
- On 12 September 2021, following the development of the ODP Scoping Document by the ICANN Board and ICANN Org, the Board [directed](#) the ICANN President and CEO to organize the resources required to begin work on the ODP, and to advise the Board when the work of the ODP is initiated within the organization.

SubPro ODP Background and Scoping Details

What is the **purpose** of the SubPro ODP?

- To facilitate the Board's determination whether the Outputs contained in the Final Report are in the best interest of the ICANN community or ICANN, in accordance with the ICANN Bylaws.
- To build out an existing piece of the Consensus Policy Implementation Framework, describing the preparation for the Board to take action on policy recommendations.
- To provide additional visibility into ICANN Org's work leading up to Board consideration of consensus policy recommendations.

What is the **scope** of the ODP?

- The questions framing the ODP as well as a project timeline are contained in the Board-approved [Scoping Document](#).
- Specifically, the ODP will assess the potential risks, anticipated costs, resource requirements, timelines, dependencies, interaction with the Global Public Interest Framework that is currently being piloted, and other matters related to implementation of the Outputs included in the Final Report.

SubPro ODP Background and Scoping Details

What is the **budget** for the ODP?

- In its Resolution, the Board recognized that the ODP is a significant undertaking and will require a considerable amount of ICANN Org resources to execute, thereby creating the need for a range of US\$7-\$9M in spending to fund the necessary resources.
- The ODP for the Subsequent Procedures Final Report will be an integral part of the preparation work for the next round of subsequent procedures for new gTLDs and will be incurred regardless. As such, the costs incurred during the ODP phase are considered part of the development costs for the next round.

What is the **timeline** for the ODP?

- The Board expects the work of the ODP to be completed within 10 months of its post-ramp up initiation. The clock on the 10 months will start once the Org has organized and allocated the resources necessary to execute the ODP, estimated to take three months.
- While conducting the ODP may extend the time the Board will take to resolve on the Outputs, the ODA, which includes a high-level, end-to-end operational design model of the Outputs, will become an invaluable tool to help streamline the implementation timeline.

SubPro ODP Community Engagement

How is the **community involved** in the ODP?

- The ODP is foremost an operational exercise, with which the Board has tasked ICANN Org, to inform the Board's deliberation of the Final Report Outputs.
- The Org's ODP team will provide regular updates via webinars, blogs, dedicated webpage presence, community sessions, and progress updates, thereby further enhancing transparency.
- Once relevant milestones have been reached, ICANN Org will also seek appropriate community feedback on the facts, figures, and assumptions on which the ODP assessment is based, providing an opportunity for community input.
- The GNSO Council is in the process of appointing a liaison - and that person will act as a first point of contact between the Board, the Org, and the Council in case a Policy question arises during the ODP that pertains to the substance or intent of a given recommendation.
- The Operational Design Phase does not replace the work of ICANN Org with the Implementation Review Team (IRT) to implement the policy recommendations after the Board has approved them.

Possible Policy/Implementation Challenges for the ODP

Policy/Implementation Challenges for the Next Round

Auctions:

- Two of the five outputs within the topic of auctions (i.e., ‘ICANN Auctions of Last Resort’ and ‘Private Auctions’) did not receive consensus-level support, meaning that they were not approved by the GNSO Council.
- Specifically, there was no consensus on: (a) whether the auctions of last resort should be done as a sealed bid auction where bids are submitted towards the beginning of the process; and (b) whether private auctions should be allowed to resolve contention sets. Thus, no recommendation on these issues has been put before the Board.
- In its 2020 comment on the Draft Final Report, the Board expressed concern that if policies/procedures related to private resolution remain unchanged, applicants may submit applications with no intent to run the registry; intending instead to collect funds in private auctions or other types of private resolution to benefit financially or to leverage those funds to improve their positioning in other contention sets.

Policy/Implementation Challenges for the Next Round (cont'd)

Public Interest Commitments (PICs)/Registry Voluntary Commitments (RVCs):

- The language of the Bylaws specifically limits ICANN's negotiating and contracting power to PICs that are "in service of its Mission."
- In its 2020 comment on the Draft Final Report, the Board has asked the PDP WG to consider the conformity of the then-proposed recs on PICs/RVCs with the ICANN Bylaws.

Closed Generics:

- There was no specific policy or separate category with additional rules on the idea of 'Closed Generic' applications, evaluations, and delegations during the 2007 Introduction of New gTLD Domains PDP.
- 2013 GAC Advice stated: "for strings representing generic terms, exclusive registry access should serve a public interest goal."
- The SubPro PDP Working Group chartered to develop policy on 'closed generics' did not reach consensus on any 'closed generics' recommendations, as documented in Final Report.
- GNSO Council resolved that there is no consensus on Closed Generics and so the Board has no policy recommendation to consider at this moment.
- The ODP will consider the operational aspect of Closed Generics as there were no specific recommendations apart from what applies to all strings, bearing in mind that the ODP is not a forum to change or develop Policy.

Value of Next Round

The Value of the Next Round

- The ability for users to access the Internet in their chosen local languages (non-ASCII characters and scripts), private sectors, governments, and civil societies have the ability to better serve their communities and take advantage of significant business opportunities.
- The increase in non-traditional and IDN gTLDs will accelerate Universal Acceptance (UA) adoption.
- It will allow for prospective registry operators to apply for new gTLDs creating new options and choice for consumers in the market.
- Businesses will be able to more precisely target their market through registration of domains whose TLD is dedicated to their business industry.
- New opportunities for investment and brand strategy. As noted in a [letter](#) sent to the Board in April 2021, the Brand Registry Group's (BRG) conveyed strong interest in proceeding toward subsequent rounds of new gTLDs.
- New business model opportunities and a platform to innovation.

GAC Review of Priority Topics

Luisa Paez, Canada
Jorge Cancio, Switzerland

GAC Input/Discussion

- GAC Members to:
 - Discuss input on key topics for potential GAC Advice to the ICANN Board relative to Subsequent Rounds of New gTLDs
- Priority Topics Identified by the GAC Collective [comment](#) (1 June 2021):
 - Predictability;
 - Registry Voluntary Commitments/Public Interest Commitments;
 - Applicant Support;
 - Closed Generics;
 - Name Collisions;
 - GAC Consensus Advice and GAC Early Warnings;
 - Community Applications;
 - Auctions:Mechanisms of Last Resort/Private Resolution of Contention Sets

Overarching Comments From GAC Comment

- The GAC supports the multistakeholder process, and does not object to the introduction of new gTLDs .
- The GAC asks the Board to **ensure that all the necessary steps and reviews take place before a new round of gTLDs**, inter alia, the CCT-RT review and SSR2 recommendations.
- The GAC continues to **harbour serious concerns regarding the absence of policy recommendations on DNS Abuse Mitigation** in the SubPro PDP WG Final Report, and notes that the WG deemed that such future effort should be holistic and must apply to both **existing** and **new gTLDs**.

Overarching Comments from GAC Comment

- The GAC expects swift action from the GNSO Council in triggering such **holistic effort**, to meet ICANN66 Communique language.
- GAC ICANN70 Communique:

“DNS Abuse should be addressed in collaboration with the ICANN community and ICANN org prior to the launch of a second round of New gTLDs. The GAC supports the development of proposed contract provisions applicable to all gTLDs to improve responses to DNS Abuse. The GAC also emphasized the importance of taking measures to ensure that Registries, Registrars and Privacy/Proxy Services providers comply with the provisions in the contracts with ICANN, including audits. The GAC welcomes the recently-launched DNS Abuse Institute and encourages community efforts to cooperatively tackle DNS Abuse in a holistic manner.”

Overarching Comments from GAC Comment

- The GAC does not intend nor wish to unnecessarily delay the process to prepare for a future round of new domain names.
- GAC considers that DNS abuse needs to be addressed and sees value in the SSAC's comment on SubPro that:

“waiting until efforts to mitigate DNS abuse can be equally applied to all existing and new gTLDs, effectively cedes the ground to malicious actors who can depend upon a long policy development process to hinder meaningful anti-abuse measures.”

- The GAC urges the Board and the ICANN community to collectively and meaningfully address this situation.

Overarching Comments from GAC Comment

- The GAC is looking forward to receiving an “*objective and independent analysis of costs and benefits [...], drawing on experience with and outcomes from the*” 2012 round of new gTLDs
- Such objective and independent analysis would allow the GAC to offer further advice ahead of a launch of a new round of gTLDs.
- GAC calls upon the ICANN Board to provide a comprehensive overview and periodic updates of all issues that need to be addressed before the next round of new gTLDs.

Predictability:

- Some GAC members continue to have doubts on the SPIRT:
 - Concerns about its added-value, its implementation and the added layer it may create regarding GAC consensus advice.
- GAC seeks clarification on role it will play, and emphasizes importance of the opportunity for equitable participation on an equal footing on the SPIRT by all interested ICANN communities

RVCs/PICs:

- GAC continues to harbour serious concerns regarding the absence of policy recommendations on DNS Abuse Mitigation . Notes that the WG deems that such future effort should be holistic and must apply to both existing and new gTLDs.
- The GAC notes that any future voluntary/mandatory PICs need to be enforceable through clear contractual obligations, and consequences for the failure to meet those obligations should be specified in the relevant agreements with Contracted Parties.

Applicant Support:

- GAC members note the importance of fostering gTLD applications from a diverse array of applicants, which could, inter alia, include regional and local authorities, from all regions and that every effort be made to increase the number of applications from underrepresented regions.
- The GAC reiterates its support for proposals to reduce or eliminate ongoing ICANN registry fees to expand financial support.

Closed Generics:

- The GAC is mindful that the issue of closed generics has generated considerable debate and diverse views.
- GAC Members support the proposed suspension of Closed Generic TLD applications until policy recommendations and/or a framework on the delegation of closed generics, which serve a public interest are developed by consensus, as per the ALAC minority statement and subsequent ALAC Advice to the ICANN Board.

Name Collisions:

- GAC notes the importance of ensuring an effective framework for measuring & tackling name collision in further rounds of new gTLDs
- Taking into account the work on name collisions carried out so far by the Name Collision Analysis Project (NCAP).
- GAC draws attention to the SSR2 recommendation 17
- GAC supports the proposed setting of a framework to characterize the nature and frequency of name collisions and resulting concerns, allowing the appropriate handling of sensitive data and security threats.

GAC Consensus Advice and GAC Early Warnings:

- GAC does not support the PDP WG recommended limitation on the timing of GAC Consensus Advice on future categories of TLDs and particular applications, oriented to discouraging any such Advice being submitted after the finalization and publication of the next AGB.
- Rec. 30.4: diverse views within the GAC on the “strong presumption” language.
- Some GAC Members believe that Section 3.1 of the 2012 AGB which states that GAC Consensus Advice “*will create a strong presumption for the ICANN Board that the application should not be approved,*” should be maintained
- Such members consider that this language was part of a delicate compromise during the 2012 round preparations and further consider that it is consistent with past and present Bylaws provisions.

Community Applications:

- The GAC supported the proposals in the Sub Pro PDP WG Initial Report for procedures to deal with community-based applications, as consistent with previous GAC advice.
- The GAC notes that consideration should be given to providing support for non-profit community-based applications, which is not included in the final recommendations.

Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets:

- Rec. 35.3: in an attempt to reduce potential gaming, the PDP WG included the need for applications to be submitted with a “bona fide” intention to operate a TLD
- The GAC reiterates concerns on the implementation, and notes that punitive measures for non compliance or submission of a “bona fide” intention are not sufficiently defined.
- Auctions of Last resort, the GAC reaffirms its view that they should not be used in contentions between commercial and non-commercial applications, and private auctions should be strongly disincentivized.

GAC Topic Lead Question for GAC Member Consideration and Discussion:

Has your government considered topics it wishes to identify for GAC Advice to the ICANN Board relative to Subsequent Rounds of gTLDs?

- Do GAC Members wish to develop GAC Advice to the Board on public policy issues relative to the SubPro PDP WG Final Outputs?
- If so, volunteer pen holders?

Questions?

Annex - ICANN org ODP Presentation

*History of Previous Rounds including
Lessons Learnt*

History and Framework: The Past Rounds

- **The First Round of 2000:** Proof of concept round for possible future introductions. Seven gTLDs were added in this round: .aero, .biz, .coop, .info, .museum, .name, .pro.
- **The Second Round of 2003:** The round of sponsored gTLDs. Seven gTLDs were added in this round: .asia, .cat, .jobs, .mobi, .tel, .travel, .xxx, .post.
- **2005:** ICANN's Generic Names Supporting Organization (GNSO) began a PDP to consider the introduction of new gTLDs, based on the results of trial rounds conducted in 2000 and 2003.
- **August 2007:** GNSO releases final overarching recommendations for introducing new gTLDs. One such recommendation provided that ICANN should introduce New gTLDs in rounds until the scale of demand is clear.
- **June 2011:** ICANN Board adopts the Applicant Guidebook and authorized the launch of the New gTLD Program.

The 2012 Round

- **January 2012:** Third round opening the gTLD market for all interested applicants. A total of 1,930 applications were submitted during the application period of the New gTLD Program. The first 4 TLDs, which were IDNs, were contracted in June/July 2012.
- **December 2012:** ICANN held a prioritization draw to determine the order in which applications would be processed during Initial Evaluation and subsequent phases of the program.
- **March 2013:** ICANN released the first set of Initial Evaluation results to applicants and the public.
- **October 2013:** the first new gTLDs were delegated.
- As of **31 August 2021**, a total of 1239 gTLDs were delegated. Out of **84** self-identified community applications, **54** Community-based TLDs were delegated, as well as **53** Geographic TLDs, and **97** Internationalized Domain Names (IDNs), **57** of which are in Chinese, followed by **9** in Japanese, **3** in Korean, **13** in Arabic, **8** in Cyrillic, **3** in Neo-Brahmi, and **4** are in other scripts.
 - *Please note: Delegated gTLD totals are not adjusted for TLDs that subsequently terminated their Registry Agreements and/or were removed from the root zone.*

The 2012 Round (cont'd)

- Application procedures for new gTLDs were established through the New gTLD Applicant Guidebook.
- An Applicant Support Program was created, which was expected to increase underserved regions' access to New gTLDs application. Three applicants applied for Applicant Support; one applicant succeeded (.KIDS).
- A Community TLD in contention with other applicants for a given string was given the option to participate in the Community Priority Evaluation (CPE) process, conducted by an independent panel. The CPE panel evaluated a community application against criteria set out in the Applicant Guidebook. Community TLD applicants that successfully completed CPE prevailed over other applicants in their contention set.
- ICANN auctions of last resort were used to resolve contention if applicants could not resolve contention amongst themselves or through CPE. As per the Applicant Guidebook, private resolution of contention sets was encouraged.
- The 2012 round allowed for an objection process, which was intended to afford businesses, individuals, governmental entities and communities an opportunity to advance arguments against introducing certain new gTLDs into the domain name system. There were 4 types of objections that could be submitted: String Confusion; Legal Rights; Limited Public Interest; and, Community Objections.

The 2012 Round (cont'd)

- The Applicant Guidebook allowed for GAC advice on new gTLD applications, including via: GAC Early Warnings, which was a notice from members of ICANN's Governmental Advisory Committee (GAC) that an application is seen as potentially sensitive or problematic by one or more governments; and GAC Advice on New gTLDs. An Early Warning was NOT a formal objection, nor did it directly lead to a process that can result in rejection of the application. The applicant could withdraw upon receipt of an Early Warning or proceed with its application. The GAC issued several instances of Consensus Advice on New gTLDs, starting with the Beijing Communique (April 2013), which encompassed nearly 500 applications.
- Public Interest Commitments (PICs) were created during the processing of applications, as a contractual mechanism between ICANN and Registry Operators, to implement various GAC advice related to public policy issues that emerged once New gTLDs applications were revealed. However, concerns have been raised about the conformity of PICs/RVCs with the Bylaws (post IANA Stewardship transition)—to the extent that they would require enforcement of commitments outside of ICANN's remit.
 - **Bylaws:** *“ICANN shall not regulate (i.e., impose rules and restrictions on) services that use the Internet’s unique identifiers or the content that such services carry or provide, outside the express scope of Section 1.1(a)”*

The 2012 Round: Lessons Learned

Lessons Learned for Application Processing:

- Design application change request processes and criteria prior to the start of the application processing and consider whether all types of application changes should be processed the same way.
- Consider defining a process to move applications that may not proceed in the Program to a final status and provide a refund if they are not withdrawn.

Lessons Learned for Application Evaluation:

- Work with evaluation panels to perform a pre-evaluation training and develop detailed procedures to ensure consistent and quality evaluations are achieved.
- Program process that allow for additional communication between the applicant and ICANN, such as the Applicant Outreach process used in evaluation, may be beneficial.
- Leverage IDN tools for future rounds and the Root Zone Label Generation Rules in the development of the String Similarity evaluation as it pertains to IDN variants.
- Consider the purpose and implications of the Geographic Names evaluation, particularly in terms of whether its purpose is limited to evaluation or if there are other implications to the Geographic Names designation.

The 2012 Round: Lessons Learned (cont'd)

Lessons Learned for Objections Procedures:

- Explore a potential review mechanism for the next round.
- Continue engagement with the GAC during the review process and the development of the future procedures to ensure that its input is incorporated into relevant process as early as possible.

Lessons Learned for Contention Resolution:

- Consider all dimensions of feedback received to revisit the Community Priority Evaluation scoring and framework before the next application round.

Lessons Learned for Contracting:

- Explore whether different applicant types could be defined in a fair and objective manner, and if there are to be different applicant types, consider whether there should be different versions of the Registry Agreement.

The 2012 Round: Lessons Learned (cont'd)

Lessons Learned for Continued Operations Instrument:

- Explore whether there are other more effective and efficient ways to fund an emergency back-end registry operator in the event of a TLD failure.

Lessons Learned for Program Management/Applicant Support:

- Consider researching globally recognized procedures that could be adapted for the implementation of the Applicant Support Program.
- In developing timelines for future applications rounds, provide an appropriate amount of time to allow for the use of best practices in system development.
- Perform full review of Program financials and application fee before fees are defined for the next application round.
- Leverage ICANN's Global Stakeholder Engagement team to promote awareness of the New gTLD Program within their regions/constituencies.