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# GAC Discussion on the Next Round of New gTLDs

Jason Merritt, Canada  
Jorge Cancio, Switzerland



Tuesday, 13 June 2023  
Session #6

# Session 6 Agenda - Next Round of New gTLDs

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- Introduction - GAC Chair
- Review and Discussion of Proposed GAC Advice language - GAC Topic Leads
  - Predictability
  - RVCs/PICs
  - Applicant Support
  - GAC Consensus Advice and GAC Early Warnings
  - Community Applications
  - Auctions
- Implementation Review Team Update - Jason Merritt, Canada
- GNSO Guidance Process on Applicant Support Update - Gabriela Mattausch, Argentina
- AOB

# Follow-up from GAC Plenary on New gTLDs - Jason Merritt, Canada

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- Do GAC Members wish to submit a comment collectively on the Draft Framework for Closed Generic gTLDs?
- If so, is there a penholder volunteer?
- Draft Roadmap for consideration for a GAC collective comment:
  - 16 June -26 June: collection of inputs from GAC members on three blocks of framework;
  - 26 June - 30 June.: penholders consolidate inputs into first draft
  - 1 July - 8 July: first draft goes for comments from GAC members/observers
  - 8 July - 12 July: Penholders prepare final draft based on comments
  - 13 July - 14 July: circulation of final draft for final 48h OK from GAC to final collective comment
  - 15 July: file comment
- Individual governments are also welcome to submit comments as noted in the session.

# GAC Discussion of Draft GAC Advice Language on New gTLDs

Jason Merritt, Canada  
Jorge Cancio, Switzerland

# 1. Review of Proposed GAC Advice Language on new gTLDs

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- The draft language was prepared based on consensus language contained in the GAC collective [comment from 1 June 2021](#), and it relates to the following topics:
  - a. Predictability
  - b. Registry Voluntary Commitments (RVCs)/Public Interest Commitments (PICs)
  - c. Applicant Support
  - d. GAC Consensus Advice and GAC Early Warnings
  - e. Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets
- GAC Topic Leads and GAC Small Group on Next Round of New gTLDs drafted language on items which were marked by the Board as pending upon their approval of most of the policy recommendations from the SubPro PDP WG Final Report at its meeting at ICANN76 in Cancun.
- The draft advice is intended to be reviewed and ready for potential inclusion in the GAC Communiqué at ICANN77, should events warrant such advice being submitted before the Board moves forward with decisions on pending topics.
- The topic of Closed Generics is being treated separately and isn't included in this draft, since it is pending the finalization and review of work from the GAC/GNSO/ALAC Facilitated Dialogue.

## 1. Predictability

- a. The GAC advises the Board:
  - i. To ensure equitable participation on the proposed Standing Predictability Implementation Review Team (SPIRT) by all interested ICANN communities, on an equal footing.

### RATIONALE

The GAC appreciates the efforts to create a Predictability Framework, but notes doubts on its added-value and concerns relative to the implementation of the Standing Predictability Implementation Review Team (SPIRT) and the added layer it may create regarding GAC consensus advice. GAC Members note that further clarification on the implementation of the SPIRT should be encouraged, as well as on the role the GAC will play in it, especially in light of Implementation Guidance 2.3 suggesting direct dialogue between the SPIRT, ICANN org and the ICANN Board on GAC Consensus Advice, in which the GAC expects to be included as well. Furthermore, GAC members emphasize the importance of the opportunity for equitable participation on an equal footing on the SPIRT by all interested ICANN communities.

## 2. Registry Voluntary Commitments (RVCs)/ Public Interest Commitments (PICs)

a. The GAC advises the Board:

- i. To ensure that any future Registry Voluntary Commitments (RVCs) and Public Interest Commitments (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. Additional mandatory and voluntary PICs should remain possible in order to address emerging public policy concerns.

### RATIONALE:

Consistent with the GAC Montreal Communiqué, the GAC considers that any future voluntary and 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. Additional mandatory and voluntary PICs should remain possible in order to address emerging public policy concerns.

The GAC recalls persistent GAC concerns regarding both the weak implementation of PICs applicable to gTLDs in highly-regulated sectors and the lack of clarity and effectiveness of the mechanism to enforce disputes (the Public Interest Commitments Dispute Resolution Process or PICDRP) and recommends that these issues are remedied in any subsequent rounds.



## 3. Applicant Support

a. The GAC advises the Board:

- i. To take steps to substantially reduce or eliminate ongoing ICANN registry fees to expand financial support for applicants from underrepresented regions.

### RATIONALE:

The GAC reaffirms the importance of increasing the number and geographical distribution of applications from underrepresented regions in future rounds of New gTLDs through the Applicant Support Program. The GAC reiterates its “support for proposals to reduce or eliminate ongoing ICANN registry fees to expand financial support”, in order to sufficiently cover all applications.

## 4. GAC Consensus Advice and GAC Early Warnings

a. The GAC advises the Board:

- i. To not accept recommendation guidance 30.2 regarding the timing of GAC Consensus Advice on future categories of TLDs and particular applications, oriented to disincentivizing any such Advice being submitted after the finalization and publication of the next Applicant Guidebook.
- ii. To adopt recommendation 30.6 with the inclusion of the compromise language submitted by the GAC as follows: “Government(s) issuing Early Warning(s) must include a written explanation describing why the Early Warning was submitted and how the applicant may address the GAC member’s concerns *to the extent feasible*”.

### RATIONALE

The GAC reiterates that GAC Early Warnings and GAC Advice are both important and useful instruments to identify applications that raise public policy concerns and should be an integral part of any future rounds. The GAC remains open to increasing transparency and fairness of these, including giving applicants an opportunity for direct dialogue with the GAC. In this sense, the GAC sees value in the recommendations regarding specified time periods for early warnings, direct dialogue between the early warning issuing government and the applicant, and the opportunity for the applicant to amend its applications based on those consultations.

## 4. GAC Consensus Advice and GAC Early Warnings

### RATIONALE (continued)

The GAC believes that early warnings are a useful mechanism for beginning a discussion with an applicant on particular issues, questions and potential sensitivities by one or more governments, where an application may potentially infringe national laws or raise sensitivities. Constructive dialogue through this process can help applicants better understand the concerns of governments and help governments better understand the planned operation of proposed gTLDs. GAC Early Warnings may help the applicant to know how it can mitigate concerns and find a mutually acceptable solution.

The GAC hence considers an early warning mechanism an essential element of any future round.

However, the GAC does not consider that recommendations should constrain GAC activities which are carried out in accordance with the ICANN Bylaws and the GAC's internal procedures. In this regard, the GAC does not support the recommended limitation (Implementation Guidance 30.2) regarding the timing of GAC Consensus Advice on future categories of TLDs and particular applications, oriented to disincentivizing any such Advice being submitted after the finalization and publication of the next Applicant Guidebook.

Regarding Recommendation 30.6, the GAC agrees with the notion that a GAC Early Warning should be explained and that in order to ensure constructive dialogue at an early stage of the procedure and mitigate these concerns it is important for Government(s) issuing Early Warning(s) or the GAC in its advice to provide a written explanation/rationale. However, the GAC wishes to recall the compromise language brought forward by the GAC, as applications may not always be able to be remedied in the opinion of the Government(s) issuing a GAC Early Warning. Therefore, the GAC proposes the adoption of an updated language to Recommendation 30.6 as follows: “[...] *how the applicant may potentially address the GAC member’s concerns to the extent feasible*”.

## 5. Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets

- a. The GAC advises the Board:
  - i. To ensure that auctions of last resort are not used in contentions between commercial and non-commercial applications.
  - ii. To ban or strongly disincentivize private auctions.

### RATIONALE

While the GAC acknowledges that, in an attempt to reduce potential gaming, recommendation 35.3 included the need for applications to be submitted with a “bona fide” intention to operate a TLD, the GAC reiterates concerns on the implementation of this condition, and notes that punitive measures for non compliance or submission of a “bona fide” intention are not sufficiently defined.

Regarding Auctions of Last resort, the GAC reaffirms its view that they should not be used in contentions between commercial and non-commercial applications, and reiterates that private auctions should be banned or strongly disincentivized.

The GAC sees value in ALAC’s view expressed in its advice to the ICANN Board noting that they believe there *“should be a ban on private auctions. Also, by mandating ICANN only auctions, the proceeds of any such ICANN auctions can at least be directed for uses in pursuit of public interest, such as was determined through the CCWG on Auction Proceeds.”*

# SubPro Implementation Review Team (IRT) Update

Jason Merritt, Canada

# SubPro Implementation Review Team (IRT) Update

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## Summary

- The SubPro IRT is a cross community group responsible for drafting the implementation guidelines for the Recommendations contained in the [SubPro Final Report. \[gnso.icann.org\]](https://gnso.icann.org) The output of the group will be the Applicant Guidebook (AGB) in preparation for the next round of gTLDs.
- The SubPro IRT commenced its work in May 2023 and has held three meetings to date. The primary focus has been discussing the [draft Implementation Plan](#), which sets out the estimated timeframe for the group to complete its work. Currently, the estimated timeframe is approximately 24 months.
- There are currently 98 approved Recommendations, and 38 Recommendations under [pending status](#) that require decisions. As the Board takes decisions on the 38 outstanding issues, they will be integrated into the IRT's Implementation Plan.

# SubPro Implementation Review Team (IRT) Update

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## Background

- On 6 March 2023 the ICANN Board passed a [resolution](#) on a set of recommendations calling, among other things, for *"a working methodology and Implementation Review Team (IRT) work plan and timeline as agreed upon by ICANN org and the GNSO Council."*
- A [Call for Volunteers](#) was published on 5 April 2023.
- The GAC appointed a Representative and an Alternate to participate in the IRT to provide input on areas of importance to the GAC, and report back on the progress throughout the process.
- GAC members appointed to the IRT are Canada (Representative) and UK (Alternate).

# SubPro Implementation Review Team (IRT) Update

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## The IRT will:

- Serve as a resource to ICANN org on policy and technical questions that arise with regard to the Board-approved recommendations of the Final Report.
- Serve as a resource to ICANN org on the background and rationale of the policy recommendations in the Final Report and seek additional guidance from the GNSO Council, as required.
- Assist ICANN org in developing the policy implementation details to ensure that the implementation conforms to the intent of the policy recommendations as detailed in the Final Report.

## The IRT does NOT:

- Allow for policy issues determined by the SubPro Final Report to be re-opened.
- Vote or have consensus designation on day-to-day work.



# SubPro Implementation Review Team (IRT) Update

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## Considerations

The timeline for drafting the AGB is dependent on the successful delivery of key dependencies including:

- Board resolutions on the 38 recommendation under pending status;
- Completion of GNSO Guidance Process (GGP) for Applicant Support;
- Completion of ongoing community discussion relating Closed Generics;
- Completion of the Name Collision Analysis Project Study 2 Report(NCAP2);
- Implementation of review recommendations, advice and Work Stream 2 items that pertain to the Next Round of new gTLDs.

Discussions regarding the Implementation Plan have focused on streamlining the overall timeline. The agreement was to expedite the overall process where possible.

## Next Steps

The next meeting of the IRT will take place during [ICANN77 \(14 June 2023 from 9:00 to 10:15 EDT\)](#).

# GNSO Guidance Process - Applicant Support

Maria Gabriela Mattausch, Argentina

## 4. GNSO Guidance Process on Applicant Support

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- In August 2022 the GNSO Council [approved](#) the GGP Initiation Request to provide additional guidance to support the eventual implementation efforts relating to the Applicant Support Program
- The working group was formed and began its work in November 2022, following its [work plan and timeline](#).
- GAC Members appointed to the GGP on Applicant Support effort include:
  - ✓ Argentina
  - ✓ United Kingdom
  - ✓ Universal Postal Union.
- Group's tasks include:
  - ✓ reviewing historical information about applicant support
  - ✓ identifying subject matter experts
  - ✓ developing data/metrics and measures of success, and
  - ✓ creating methodology for allocating financial support where there is inadequate funding for all qualified applicants.

## 4. GNSO Guidance Process on Applicant Support

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- Once the working group completes all of its tasks, it is expected to produce a GNSO Guidance Recommendation(s) Report, which will be subject to Public Comment.
- Following the review of Public Comment submissions and, if required, additional deliberations, the working group will produce a Final Report for the consideration of the GNSO Council and subsequently for consideration by the ICANN Board.
- During ICANN77, the GGP Working Group will hold a working session, aiming to finish consideration of Task 6 related to a methodology for allocating financial support where there is inadequate funding for all qualified applicants.

# GNSO Guidance Process (GGP) Applicant Support Update

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## **Task 6: Recommend a methodology for allocating financial support where there is inadequate funding for all qualified applicants.**

- Implementation Guidance 17.10: The dedicated Implementation Review Team should consider how to allocate financial support in the case that available funding cannot provide fee reductions to all applicants that meet the scoring requirement threshold.
- GGP is considering 3 main Recommendation Guidances
  - a. to lower fee equally across qualified applicants or employing a prioritization process to determine allocation of funding for qualified applicants.
  - b. To mitigate the risk that the allocation of support under the Applicant Support Program could be diluted to the point of being unhelpful
  - c. Develop a flexible and responsive Applicant Support Program that will communicate the results of the evaluation process and inform applicants about their range of support allocations, as early as possible in a transparent manner.
- GGP is considering this circumstance: to pursue equal funding or a prioritisation mechanism?



# Engage with ICANN



## Thank You and Questions

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