GAC Capacity Building Workshop on Subsequent Procedures

Monday, 9 March 2020
10:45-12:15 Cancun Time (UTC-5)
15:45-17:15 UTC
How BEST to participate?

Adigo Dial-in Numbers: https://www.adigo.com/icann
Zoom Dial-in Numbers: https://zoom.us/zoomconference

English Audio: http://stream.icann.org:8000/cun67-cozumel3-en.m3u
French Audio: http://stream.icann.org:8000/cun67-cozumel3-fr.m3u
Spanish Audio: http://stream.icann.org:8000/cun67-cozumel3-es.m3u

If you want your QUESTIONS/COMMENTS to be read out:
➢ Start your sentence with <QUESTION> and end it with <QUESTION>
➢ Start your sentence with a <COMMENT> and end it with <COMMENT>
Review our Expected Standards of Behavior when participating in ICANN Meetings.

Go to: http://go.icann.org/expected-standards

Review the ICANN Community Anti-Harassment Policy when participating in ICANN Meetings.

Go to: http://go.icann.org/anti-harassment

Do you have a question or concern for the ICANN Ombudsman?

Email ombudsman@icann.org to set up a meeting.
1. Welcome, Introductions and Overview on Subsequent Procedures Discussion (5 mins)

2. Part I: Process (20 mins)
   a. Policy Development in the GNSO Sub Pro PDP (GNSO)
   b. ICANN67 PDP potential outcomes (GNSO)
   c. Q&A

3. Part II: Substance (60 mins)
   Subsequent Procedures - GAC overview
   i. Closed Generics TLDs
   ii. Public Interest Commitments (PICs)
   iii. GAC Early Warnings and GAC Advice
   iv. Applicant Support Program and Underserved Regions
   v. Community Based Applications

4. Closing Remarks (5 mins)
PART I: Process

a. Policy Development in the GNSO Sub Pro PDP WG (GNSO)

b. ICANN67 PDP potential outcomes (GNSO)

c. Q&A
Policy Development in the GNSO Sub Pro PDP WG

- **Final Issue Report** delivered to GNSO Council on 4 Dec 2015, *New gTLD Subsequent Procedures PDP initiated on 17 Dec 2015.*

- Charter adopted on 21 Jan 2016

- PDP has 40+ topics in its Charter to consider and established 4 Work Tracks to help distribute the work.

- Eventually established a Work Track 5, dedicated to geographic names at the top-level.

- WG has reached out for written input a number of times (in addition to face to face meetings with the community):
  - Community Comment 1: June 2016
  - Community Comment 2: March 2017
  - **Initial Report:** July 2018
  - Supplemental Initial Report: October 2018
  - WT5 Initial Report: December 2018
The WG is concentrating on developing its draft final recommendations.

The WG is seeking to publish its draft Final Report for public comment around July of 2020.

Taking into account public comment, the WG will adjust its **Final Report and deliver to the GNSO Council no later than 20 December 2020**.

At a high-level, subsequent steps will include:
- GNSO Council consideration of the Final Report and recommendations
- Board consideration of the Final Report and recommendations
- Policy implementation
- New gTLD Program launch
ICANN67 PDP Potential Outcomes

- As noted, the WG is concentrating on developing its draft final recommendations.

- For ICANN67, the PDP is concentrating on 5 topics where there remain open questions. These topics are also topics of high interest for the GAC.

- The potential outcomes from ICANN67 are:
  - Engagement with the GAC and other community members to ensure that, to the extent there are points of divergence from WG’s expected outcomes, the specific interests are understood.
  - Where possible, open issues are resolved.
  - The WG has a clear path to completing the draft final recommendations for the 5 topics, which may include making adjustments to better account for the various interests.
PART II: Substance

Subsequent Procedures - GAC overview

- Closed Generics TLDs
- Public Interest Commitments (PICs)
- GAC Early Warnings and GAC Advice
- Applicant Support Program and Underserved Regions
- Community Based Applications
Overview:

- **Closed generics** are a gTLD:
  - that corresponds to a ‘generic string’ (such as .BLOG, .BOOK, .BEAUTY)
  - which limits 2nd level registrations to a single person or entity and/or their affiliates

- **Policy regime** and relevant advice/decisions (for the 2012 round of New gTLDs):
  - No requirements on closed generics in the 2007 GNSO policy and 2012 AGB
  - GAC Beijing Communiqué (2013): "For strings representing generic terms, exclusive registry access should serve a public interest goal" (aka "Category 2.2 Safeguard Advice")
  - ICANN Board resolution (2015): applicants proposing to provide exclusive registry access for a generic string must elect to either:
    1. submit a change request to no longer be an exclusive generic TLD,
    2. maintain their business plan and defer the application to a future round, or
    3. withdraw the application for a refund.
  - ICANN Board requested consideration of this issue in policy work on subsequent rounds

GAC Views to Date:

The Category 2.2 Safeguard Advice in the **GAC Beijing Communiqué** (11 April 2013) remains the GAC’s reference position: "For strings representing generic terms, exclusive registry access should serve a public interest goal"
Public Interest Commitments (PICs)

Overview:
- Contractual mechanism between ICANN and Registries to implement GAC advice
- 2 types of PICs were created:
  - *Voluntary PICs*: voluntary commitments by applicants to transform application statements into binding contractual commitments (the case for 499 applications)
  - *Mandatory PICs*: requirements consistent with GAC Safeguard Advice in the ICANN46 Beijing Communique, either applicable to all New gTLDs or those in regulated or highly regulated sectors

GAC Views to Date:
- Adoption and implementation of the PICs *differed in many respects from GAC advice* most notably on the issue of safeguards applicable to highly regulated gTLDs (Cat. 1)
- CCT Review finding that there are *difficulties with assessing the effectiveness of new gTLD consumer safeguards, particularly PICs*, due to lack of a reporting framework and associated data should be considered in policy development
- *Compliance with PICs* should be effectively monitored by ICANN, with appropriate sanctions
- *Definition, accessibility and evaluation* of applicant’s PICs should be improved
Overview:

The 2012 Applicant Guidebook included, in addition to other ICANN mechanisms, two mechanisms to for GAC members to express public policy concerns on specific gTLD applications.

- **GAC Early Warning**
  - Individual notice from GAC members to applicants when application seen as potentially sensitive or problematic. Not a formal objection.
  - Does not lead to a process that can result in rejection of application
  - Raises likelihood for application to be subject of GAC Advice or of a formal objection later

- **GAC Advice on New gTLDs**, issued to the ICANN Board, could take 3 forms:
  - The GAC advises ICANN that it is the consensus of the GAC that a particular application should not proceed. This will create a strong presumption for the ICANN Board that the application should not be approved.
  - The GAC advises ICANN that there are concerns about a particular application “dot-example.” The ICANN Board is expected to enter into dialogue with the GAC to understand the scope of concerns. The ICANN Board is also expected to provide a rationale for its decision.
  - The GAC advises ICANN that an application should not proceed unless remediated. This will raise a strong presumption for the Board that the application should not proceed unless there is a remediation method available in the Guidebook (such as securing the approval of one or more governments), that is implemented by the applicant.
GAC Views to Date:

- GAC Early Warning and GAC Advice were a useful mechanism to identify applications that raise public policy concerns.
- GAC Early Warning and GAC Advice should be an integral part of any future rounds.
- The GAC would welcome the opportunity to discuss options to increase the transparency and fairness of these arrangements, including:
  - providing a rationale for objections and
  - giving applicant subject to Early Warnings the opportunity for direct dialogue with the GAC.
- Current concerns with PDP WG consideration to remove, in future editions of the Applicant Guidebook, language included in the 2012 AGB section 3.1 that GAC Advice “will create a strong presumption for the ICANN Board that the application should not be approved.”
Overview:

- ICANN Community-based initiative, led by GNSO and At-Large
- Aimed to increase underserved regions’ access to New gTLDs application
- Qualified applicants could benefit from pro bono services and reduced applications fees
- In practice: The program received 3 applications; only 1 of which qualified. Some argue there was insufficient information about the program.

GAC Views to Date:

- Expand and improve outreach to targeted regions in the Global South
- ICANN org should identify which regions are considered as ‘underserved’ and 'underrepresented' and in what context are they defined as such.
- ICANN org should provide regional targeted capacity building efforts to all ICANN community stakeholders [...] in a timely manner to allow stakeholders to be prepared for the subsequent round, and better promote competition, consumer choice and consumer trust.
- Clear measurable goals and indicators for applications from the Global South should be established, linked to ICANN strategic objectives,
- ICANN to coordinate pro bono assistance
- Members from underserved regions should be offered additional support due to external issues which should not prevent entities in those regions from applying
Community Based Applications

Overview:

- A Community-based New gTLD is intended for use by community groups interpreted broadly
  - For example: an economic sector, a cultural community, or a linguistic community
  - 84 application self identified as such in the 2012 round
- Given priority in case of multiple applicants for a given string if they could meet the high bar of the Community Priority Evaluation (CPE) process.
  - 25 applicants elected to go through CPE in the 2012 round
  - 5 applicants passed the CPE test

GAC Views to Date:

- The GAC noted the importance of making the CPE more transparent in future rounds, in support of several stakeholders’ views on this matter.
- The GAC stressed that where a community which is impacted by a new gTLD application has expressed a collective and clear opinion, that opinion should be duly taken into account as part of the application, regardless of whether those communities have utilised the ICANN formal community process
- The GAC proposed an appeal mechanism for community applications.
- A study by the Council of Europe on Applications to ICANN for Community-based New Generic Top Level Domains (gTLDs): Opportunities and challenges from a human rights perspective should be considered
Closing Remarks