

**GAC Advice – ICANN80 Kigali Communiqué: Board Action (29 July 2024)**

GAC Advice Item	Advice Text	Board Understanding Following Board-GAC Call	Board Response
<p><b>§1.a.i</b> Applicant Support Program (ASP)</p>	<p><b>a. The GAC advises the Board to:</b></p> <p>i. <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.</i></p> <p><u>RATIONALE:</u> The ASP application submission period is twelve months. In that time period, applications that are compiled and submitted earlier in the process should not be given an advantage over applications submitted later in the process. Giving applications submitted earlier in the window an advantage, in terms of earlier evaluation, could detrimentally impact organizations applying from underserved regions, who will likely take longer to prepare applications due to the need to access enhanced services, for example, translation services into their native languages, i.e. in languages other than the six (6) official United Nations languages. It will also take longer to raise awareness of the ASP and its benefits with those without existing connections to the ICANN community. The GAC wants to mitigate against a scenario where places for ‘successful applicants’ have been filled before applicants from underserved regions have had an opportunity to apply in the time period advertized.</p>	<p>The GAC has concerns about potential disadvantages to prospective ASP applicants from under-served regions that may learn about the program later in the application process when allocated funds are unavailable. The GAC does not think that evaluating and providing ASP evaluation results on an ongoing basis is aligned with the goals of the Applicant Support Program.</p> <p>The GAC would like a stronger Board commitment on the funding for supported applicants, should demand exceed available resources to support 45 applicants.</p>	<p>The Board appreciates the GAC’s concerns and is aligned with the GAC that the emphasis on communications, outreach, and engagement activities for the ASP should focus on underserved regions, in line with the <a href="#">GNSO Guidance Process recommendation #1</a>.</p> <p>The Board 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.</p> <p>The Board is also concerned that waiting until the end of the ASP application submission period does not solve the challenge of how to decide which applicants receive support over others, if it is not based on first-come, first-serve. Additionally, the GNSO Guidance Process for ASP explored how to allocate resources if demand exceeds the budget and decided against prioritizing some applicants over others and the Board has accepted these recommendations and directed ICANN org to implement. Additionally, the Board would like to ensure that implementation work continues as per the timelines communicated in the <a href="#">implementation plan</a>.</p> <p>The Board understands the GAC’s request that was noted in the correspondence, <a href="#">dated 8 July 2024</a>, for a firmer financial commitment should the demand for ASP exceed the available resources of 45 supported applicants. However, the Board is not in a position to make open-ended financial commitments given its fiduciary responsibilities.</p> <p>The Board looks forward to the Board-GAC Bylaws Consultation process that is required following this notice, during which we will work together to potentially find a mutually agreeable solution that addresses the GAC’s concerns.</p>
<p><b>§1.a.ii</b> Applicant Support Program (ASP)</p>	<p><b>a. The GAC advises the Board to:</b></p> <p>i. <i>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.</i></p>	<p>The Board appreciates the GAC’s interest in community participation in the ASP evaluation process and the desire to leverage community expertise.</p>	<p>The Board understands the GAC’s concerns and understands the potential value the GAC and other community groups could bring to the process.</p> <p>However, the Board believes that implementing this advice would significantly increase the risks of conflicts of interest and legal challenges over the evaluation and related decision-making. The</p>

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	<p><u>RATIONALE:</u></p> <p>Given that members of the community have continued to express a high level of interest in the delivery of an ASP that facilitates global diversification of the new gTLD program, the GAC is of the view that applicants through the program, and the program itself, would benefit from having non-conflicted members of the community, including the GAC, monitor and participate in the ASP Application Evaluation process.</p>		<p>Board believes that an independent third-party panel will be best placed to conduct the evaluation.</p> <p>Additionally, ICANN org is planning to contract with an independent, highly skilled third party to act as the Standing Application Review Panel (SARP) and is currently conducting a Request-for-Proposal (RFP) process in this regard. A change to this approach would be a significant departure from established plans and cause significant delays to the launch of the ASP.</p> <p>The Board looks forward to the Board-GAC Bylaws Consultation process that is required following this notice, during which we will work together to potentially find a mutually agreeable solution that addresses the GAC’s concerns.</p>
<p><b>§1.a.iii</b> <b>Applicant Support Program (ASP)</b></p>	<p><b>a. The GAC advises the Board to:</b></p> <p>i. <i>To initiate a facilitated dialogue, involving representatives from the GAC, GNSO and the ALAC, to assess the feasibility of leveraging (including contracting and financing the services of) a platform to which new gTLDs, supported through the ASP, could move to eventually operate their own back-end services.</i></p> <p><u>RATIONALE:</u></p> <p>The Board has issued several useful questions to the GAC on the GAC’s previous ICANN79 Advice to “explore the potential of leveraging (including contracting and financing the services of) a platform to which new gTLDs, supported through the ASP, could move to eventually operate their own back-end services”. In order to develop a response to these questions with completeness, and duly considering the views and expertise of the wider multistakeholder community, the GAC proposes engaging in a dialogue with representatives from the GNSO and ALAC to assess the feasibility of this and to potentially develop a proposal, in a timely manner, for a way forward.</p>	<p>The Board appreciates the GAC proposal in its <a href="#">correspondence</a> dating 8 July 2024, stating that “for the referenced facilitated dialogue and stakeholder consultations to be independent from the ASP specifically, so as not to cause undue delay.”</p>	<p>At this time, the Board takes no action on this advice. The Board plans to resolve on this advice in September 2024.</p>
<p><b>§1.a.iv</b> <b>Applicant Support Program (ASP)</b></p>	<p><b>a. The GAC advises the Board to:</b></p>	<p>The Board understands that the discussion during the clarifying call has already addressed some GAC concerns. The Board suggests that our continued dialogue on this advice will be informed by ICANN org’s plan to share concrete and detailed information about its</p>	<p>At this time, the Board takes no action on this advice. The Board plans to resolve on this advice in September 2024.</p>

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	<p>i. <b>To develop a report outlining the results and outputs of the Engagement and Outreach Plan according to the stated timeline i.e.</b></p> <ul style="list-style-type: none"> <li>● <b>May 2024: Launch Awareness Campaign (including priority outreach to underserved regions).</b></li> <li>● <b>June 2024 (ICANN80): Stakeholder Consultations</b> <ul style="list-style-type: none"> <li>○ <b>Conduct stakeholder consultations to gather feedback on the ASP's design and eligibility criteria.</b></li> <li>○ <b>Engage with potential applicants to understand their needs, challenges, and expectations regarding the ASP.</b></li> <li>○ <b>Use feedback to refine ASP guidelines and communication materials.</b></li> </ul> </li> </ul> <p><u>RATIONALE:</u></p> <p>The GAC appreciates the publication of the 'New gTLD Program: Next Round Engagement and Outreach Plan', which included a high-level plan for outreach on the Applicant Support Program. The GAC looks forward to receiving the itemized costs, detailed scope and clear metrics of success (including specific targets) to accompany the plan. In that regard, the GAC appreciates the Key Performance Indicators (KPI) published that will be used to assess program success after implementation, and looks forward to receiving associated KPI targets that will be used to measure ongoing progress in real-time as the program is implemented. The GAC believes that such an approach can only be of positive benefit to the success of the ASP, and would allow for course corrections as deemed necessary during implementation, as opposed to waiting until the end of the program to conduct an assessment.</p>	<p>outreach and engagement plan and conduct brainstorming sessions with GAC members to identify opportunities to leverage in-country relationships that GAC members may have to reach appropriate candidates for applicant support.</p>	
<p><b>§2.a.i</b> <b>Auctions:</b> <b>Mechanisms of Last Resort/Private Resolution of Contention Sets in New gTLDs</b></p>	<p><b>a. The GAC advises the Board to:</b></p> <p>i. <b>To prohibit the use of private auctions in resolving contention sets in the next round of New gTLDs.</b></p> <p><u>RATIONALE:</u></p> <p>The GAC notes the Board Resolution of 8 June 2024 as well as the update provided by the Board on its current thinking about resolution</p>	<p>The Board understands the GAC's advice to be to prohibit the use of private auctions in resolving contention sets in the Next Round of New gTLDs.</p>	<p>The ICANN Board accepts this advice to prohibit the use of private auctions in resolving contention sets in the Next Round of the New gTLD Program. The Board notes the GAC's advice is related to private auctions only, and that acceptance of this advice would not preclude the use of other forms of private resolution, such as joint ventures.</p>

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	<p>of contention sets in relation with the ICANN77 Washington D.C. GAC Consensus Advice:</p> <ul style="list-style-type: none"> <li>I. To take steps to avoid the use of auctions of last resort in contentions between commercial and non-commercial applications [...]</li> <li>II. To ban or strongly disincentivize private monetary means of resolution of contention sets, including private auctions.</li> </ul> <p>Pursuant to GAC Consensus Advice regarding the use of private auctions, noting the recent Board resolution and discussions between GAC, ALAC and other parties during ICANN80, the GAC has concluded that private auctions should be prohibited for the next round of New gTLDs.</p> <p>The GAC further notes that according to its resolution, the Board intends to take an action that is potentially inconsistent with the above GAC Consensus Advice concerning auctions of last resort in contentions between commercial and non-commercial applications. In this regard, and with a view to identifying alternative means to resolve such contention sets, the GAC advises that before taking a decision and engaging in a potential Bylaws-mandated process with the GAC, the Board initiates a focused community-wide discussion, including ALAC, GAC and other parts of the community, in order to identify, inter alia, possible ways forward consistent with the GAC Consensus Advice.</p>		
<p><b>§2.a.ii</b>  <b>Auctions:</b>  <b>Mechanisms of Last Resort/Private Resolution of Contention Sets in New gTLDs</b></p>	<p><b>a. The GAC advises the Board to:</b></p> <ul style="list-style-type: none"> <li>i. <b><i>To urgently initiate a focused community-wide discussion (including with the GAC and ALAC) on the resolution of contention sets, with a view to finding alternatives to private auctions and ICANN auctions of last resort, before the ICANN Board takes any action in a manner that may be inconsistent with the ICANN77 Washington D.C. Communiqué GAC Consensus Advice.</i></b></li> </ul> <p><u>RATIONALE:</u></p> <p>The GAC notes the Board Resolution of 8 June 2024 as well as the update provided by the Board on its current thinking about resolution of contention sets in relation with the ICANN77 Washington D.C. GAC Consensus Advice:</p>	<p>The Board understands the GAC’s advice to be to initiate a community-wide discussion on the resolution of contention sets with a view to finding alternatives to private auctions and ICANN auctions of last resort.</p>	<p>The Board accepts this advice, with the understanding that the timing of the community discussion must not impact the AGB timeline which in turn could lead to a delay of the opening of the Next Round.</p> <p>To achieve this goal, the Board believes the discussion needs to be completed no later than 23 August 2024, to allow the Board to consider the outcome before its planned decision on all matters related to resolution of contention sets during its September workshop.</p> <p>To help inform the community, the Board directs ICANN org to manage, moderate, and facilitate the community dialogue and to provide the community with a framework paper that provides all relevant considerations around the resolution of contention sets.</p>

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