UPDATE & CONSULTATION ON
New gTLD Subsequent Procedures

CLOSED GENERICS (v04)

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Revisiting Closed Generics as at 17 March 2020

2007 GNSO Policy

- Did not disallow Closed Generics

2012 Round Applications, Developments & Ensuing Implementation

- 2012 application round did not reference "Closed Generics"
- GAC Beijing 2013 Communique – non-exhaustive list of 'generic strings', affecting 186 applicants
    - ❖ "Generic String" means a string consisting of a word or term that denominates or describes a general class of goods, services, groups, organizations or things, as opposed to distinguishing a specific brand of goods, services, groups, organizations or things from those of others."
- ICANN solicited responses from applicants on plans to operate strings as Closed Generics
- ICANN Board 2015 resolution – effectively meant Closed Generics were banned in 2012 round; but that GNSO should come up with policy on Closed Generics for subsequent rounds

2007 GNSO Policy vs 2012 Implementation

- Default position unclear

Is there a way forward for "Closed Generics"?

Prior to ICANN67

- ALAC statement AL-ALAC-ST-0926-02-01-EN to SubPro IR expressed cautious qualified support for Options 2 and 3 in the spirit of finding a compromise

- No consensus on path forward although public comment returned support for Option 2 and Option 3

  - ❑ **Option 2: Closed Generics with Public Interest Application** – Allow but require applicants demonstrate the CG serves a public interest goal in their application subject to Objection process

  - ❑ **Option 3: Closed Generics with Code of Conduct** – Allow but require applicant commitment to a code of conduct addressing concerns expressed by those opposed to CG (through a Community Objection-like process)

As at 17 March 2020, post ICANN67

- Still no consensus on path forward as yet

- Given default position still unclear, SubPro PDP WG Leadership attempts to establish a level of support to develop a fresh policy recommendation including **a call for proposals for consideration in respect of whether to allow closed generics in some way**

Is there a way forward for "Closed Generics"?

Some questions for consideration

- Is there are any circumstances or use cases for which we would allow (qualified) closed generics?

- If yes, then how to describe those circumstances exhaustively? Re-establish a definition of closed generic by consensus? How does it support public interest? Or how public interest is harmed? Concept of "guardrails"

- Is mandating explanation on how application for closed generic supports the public interest enough to assess it? Can these be offered through Registry Commitments (i.e. PICs)?

- If yes, who should assess and decide whether something is in the public interest? ICANN Board?

- How should such offered Registry Commitments and/or factors in support of public interest be used (if at all)?

- What sort of (additional) contractual requirements should be proposed to enforce compliance?

- Can we (simply) rely on PIDCDRP process?

Is there a way forward for "Closed Generics"?

4 Proposals for 'Special Use Cases' to encourage discussions

#1 .DISASTER

- ❑ Public interest rationale
- ❑ Operated by IRC, as eg.
- ❑ Board to decide whether to allow by supermajority or overwhelming majority
- ❑ Decision appealable

Issues, include:

- Should Board decide on 'Public Interest' rationale?
- Feasible for Board to decide? What if there's large number of applications?

#2 .HEART

- ❑ Community for pacemakers, to support device/system comms vide 'easy handle'
- ❑ Operated by single-user as a function, not consumer product so no selling of SLDs
- ❑ Up to operator to secure

Issues, include:

- Why not use a .BRAND instead?

#3 .DASHBOARD / Beta testing

- ❑ Beta test for new service that does not force customers to register & manage SLDs in conventional way
- ❑ May want to transfer SLD to end user later, after consultation leading to proper registration policies - current RO "100 SLD reservation" insufficient for good beta test
- ❑ Approved Launch Program for multi-year

Issues, include:

- What guardrails or registry commitments to apply?

#4 "Proof-of-Concept"

- ❑ Time to test cool idea for more prudent traditional implementation model, ie offer SLD for sale eventually
- ❑ Allows for test to different components pre-RSEP, pre-SLD registration launch
- ❑ Allows experimentation of models bypassing "Open Generics"
- ❑ Have guardrails, incl. set number of test names which don't count against RO "100 SLD reservation", or have specific "test phase"

Issues, include:

- Any harm or additional restrictions to consider? Facilitates competition?