

# GAC - ALAC Topic Leads Discussion Subsequent Procedures

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## Prior GAC Views (Pre-ICANN67):

- 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

## Current State of Play in Subpro PDP WG:Draft Final Recommendations

- WG recommends that ICANN must continue to provide applicants with the opportunity to submit **Registry Voluntary Commitments (RVCs)** (previously called voluntary PICs) in subsequent rounds.
- Applicants must be able to submit RVCs at the time of application submission as well as at any other time prior to the execution of a Registry Agreement.
- Applicants must also be allowed to commit to additional RVCs, or modify proposed RVCs, in response to public comments, objections, GAC Early Warnings, and/or GAC Advice, **specifying whether such commitment is limited in time, duration and/or scope** to facilitate review by ICANN org, a possible objector and the GAC.
- Transparency: RVCs must be readily accessible and presented in a manner that is usable, in line with GAC positions - alignment with GAC positions.
- **No policy recommendations expected with respect to mitigating DNS Abuse:** WG deems that such future effort must apply to both existing and new gTLDs (and potentially ccTLDs)

## ICANN67 GAC Communiqué Language:

- “Discussions on Public Interest Commitments (PICs), both voluntary and mandatory (mandatory PICs were not included in the 2007 GNSO policy recommendations) go in the direction of confirming the existing practice as policy for the future. One important area of focus for GAC Members was DNS Abuse as mandatory PICs were used to implement GAC advice on DNS Abuse, and specifically due to the referral of relevant CCT-RT Recommendations, which were passed by the Board to the GNSO and from its Council to the Sub Pro PDP WG. The PDP WG Co-Chairs indicated that the current recommendation text would refer DNS Abuse to a separate policy development process or other effort, which would address the issue holistically (i.e. not only for the next round). GAC members expressed concern with this approach, highlighting the importance of the CCT-RT Recommendations and the need to implement them in light of the GAC Montreal Advice on this matter.”

## GAC Individual Member Input via Written Consultation - May 2020

- **GAC individual input** shows consistent support for the implementation of recommendations on DNS as per CCT Review, representing essential mechanism to address public interest concerns.
- Some GAC Members noted importance of evaluation, effectiveness and enforceability considerations
- GAC individual input showed misalignment with PDP WG recs (in particular rationale 8) postponing topic of DNS Abuse mitigation to a future PDP or other effort.
- GAC members noted that PICs were not sufficiently enforced in previous rounds, and that PDP WG should make concrete recommendations on improvement of the enforceability of PICs.

## Discussion:

- What are the ALAC's views on the enforceability piece of PICs?
- What are the ALAC's views on how to best address DNS Abuse CCT-RT recommendations?
- Any other comments/views?

## Prior GAC Views (Pre-ICANN67):

- 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.”*

## Current State of Play in Subpro PDP WG:Draft Final Recommendations

- If GAC Consensus Advice is issued after the finalization/publication of the next AGB and applies to categories, groups or classes of applications or string types, or to a particular string, the ICANN Board should take into account the circumstances resulting in such timing and the possible detrimental effect of such timing in determining whether to accept or override such GAC Consensus Advice as provided in the Bylaws.
- The WG recommends that GAC Consensus Advice be limited to the scope set out in the applicable [Bylaws provisions](#) and elaborate on any “interaction between ICANN's policies and various laws and international agreements or where they may affect public policy issues.”
- Section 3.1 of the 2012 Applicant Guidebook states that GAC Consensus Advice “will create a strong presumption for the ICANN Board that the application should not be approved.” Noting that this language does not have a basis in the current version of the [ICANN Bylaws](#), the WG recommends omitting this language in future versions of the AGB to align it with the Bylaws language.



## Current State of Play in Subpro PDP WG:Draft Final Recommendations - Continued

- The WG further notes that the language may have the unintended consequence of hampering the ability of the **Board to facilitate a solution** that mitigates concerns and mutually acceptable to the applicant and the GAC as described in the relevant Bylaws language. Such a solution could allow an application to proceed.
- **In place of the omitted language, the Working Group recommends including in the Applicant Guidebook a reference to applicable Bylaws provisions that describe the voting threshold for the ICANN Board to reject GAC Consensus Advice.**

## ICANN67 GAC Communiqué Language:

- “The GAC notes that the current recommendations of the Sub Pro PDP WG contrast to some extent from GAC input on its Initial Report, since, inter alia, it is considering removing in future editions of the Applicant Guidebook that GAC Consensus Advice on an application “will create a strong presumption for the ICANN Board that the application should not be approved”. Additionally, GAC Members expressed the need for further discussion of draft PDP WG recommendations regarding: the scope of the rationale of GAC Advice; and proposing that “GAC Advice issued after the application period has begun must apply to individual strings only, based on the merits and details of the applications for that string, not on groups or classes of applications.” Sub Pro PDP WG discussions on this topic noted that, with the intent to take into account the concerns expressed by GAC participants, alternative language will be drafted possibly referring recommendations back to the new ICANN Bylaws. The GAC noted the need for further discussion within the GAC and with the PDP WG”.

## GAC Individual Member Input via Written Consultation - May 2020

- Mixed input received by individual GAC Members/Observers.
- Some members/observers support current PDP WG Language (noting the language reviewed by the GAC did not include the most recent changes flagged in previous slide);
- Some members/observers note that GAC Advice on categories or groups of applications should remain possible once application period has begun.
- Multiple members/observers noted that a mention of the ICANN Bylaws would suffice in rationale 1 relative to “GAC consensus advice be limited to the scope set out in the applicable Bylaws provisions”

## Discussion:

- What are ALAC's views on replacing the language in the AGB on GAC Consensus Advice creating strong presumption that the application should not be approved, by reference to ICANN Bylaws describing voting threshold to reject GAC Consensus Advice?
- What are ALAC's views on PDP WG recommendations regarding the scope of GAC Advice issued after the application period has begun?
- Any other comments/views?