

Closed Generics Proposal  
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## Background

The GAC issued advice to the Board on the New gTLD Program through its Beijing Communiqué dated 11 April 2013. In the Beijing Communiqué, the GAC advised the Board that, "For strings representing generic terms, exclusive registry access should serve a public interest goal".

As part of its response to the GAC Advice, ICANN solicited comments from the community on this issue. Comments from the community expressed a diversity of views on how, and whether the Board should implement the GAC advice.

Ultimately, on 21 June 2016, the ICANN Board passed a resolution "requesting that the GNSO specifically include the issue of exclusive registry access for generic strings serving a public interest goal as part of the policy work it is planning to initiate on subsequent rounds of the New gTLD Program, and inform the Board on a regular basis with regards to the progress on the issue."

## Proposal for our Draft Final Report

The Implementation Review Team must create a Framework for Evaluating Closed Generic applications to determine whether those applications "serve a legitimate public interest goal."

In order to serve a legitimate public interest goal, the following criteria, at a minimum, must be satisfied:

- The TLD must serve a broad base of end users above and beyond the interests of the individual registry operator. For purposes of this statement, end users mean those toward which the content and use of the TLD is directed. End Users do not mean domain name registrants.
- The TLD must serve a demonstrated and legitimate need of that broad base of end users.
- A governance council of "end users" must be established to ensure the TLD continues serving its legitimate public interest ("Governance Council").

The following factors should be used by the IRT to create such a Framework and determining whether the proposed Closed Generic application "serves a public interest goal."

- Why is the selected string necessary for your registry / Why did you choose this string at the exclusion of others?
- How does the proposed closed registry serve the public interest?

- How does the proposed mission and purpose of the registry support such use and why must it be a closed model?
- What is the likely effect on competition of awarding the proposed closed registry for the same or similar goods and/or services?
  - Are there other strings already delegated that serve the Applicant's industry which can be utilized by competitors?
  - If not, are there reasonable alternatives to the string that may be utilized by other entities in the Applicant's industry in the then-current round or if proposed during a subsequent round?
- Who are the intended "users" or beneficiaries of the TLD?
- What are the benefits to those users or beneficiaries of the TLD?
- What will the governance of the TLD be and who will constitute the Governance Council?

### Rules

- If there are more than one other application for the same or a confusingly similar string (eg., there is a contention set for the string), then none of those applications will be allowed to be a Closed Generic.
- A Public Interest Panel shall be appointed by the ICANN Board to evaluate whether the application and the proposed use of the Closed Generic TLD serves a legitimate public interest goal.
- All commitments made by the TLD Applicant in demonstrating its use will serve a public interest goal must be incorporated into the Registry Agreement as Public Interest Commitments.
- The Closed Registry may not modify any Public Interest Commitments unless those changes are approved by the Governance Council and the ICANN Board after a public comment period.
- In the event the Registry is assigned to a third party (either by Agreement or by operation of law), all of the terms and conditions imposed on the original registry must be absorbed by the new registry including the Public Interest Commitments.
- A Closed Generic may at any time be converted to an Open (or Open Restricted TLD) at any time, provided that at the time of such conversion, the Registry must follow all of the rules applicable to Open TLDs, including the launch of a Sunrise Process, Trademark Claims, etc. In addition, the Registry must give up the use of all names other than the 100 names reserved under the Registry Agreement for the operation of the TLD.