YEŞIM SAĞLAM:	Good morning, good afternoon, and good evening to everyone. Welcome to the second APRALO Policy Forum Fireside Chat on the topic "Let's Talk about Closed Generics" taking place on Wednesday, 8th of June 2022 at 07:00 UTC.
	In the interest of time, we will not be doing a roll call but all attendees both on the Zoom Room and on the phone bridge will be recorded after the call. Before we get started, just the kind of reminder to please state your name before speaking for the transcription purposes. Thank you all very much for joining today's session. Now I would like to leave the floor over to Olivier Crépin-Leblond. Over to you, Olivier. Thanks so much.
OLIVIER CRÉPIN-LEBLOND:	Thank you very much, Yeşim. Welcome to this APRALO Fireside Chat. Unfortunately, I haven't got a fire here but I do have the real logs in a log cabin. Not quite in the APRALO region. But actually, it is in the APRALO region. I'm in Turkey. So yes, I'm in Asia. Great. So it's great to see you all on today's call. It's about an interesting topic that has been around for a very, very long time, probably a longer time than I've been around ICANN. I've been directly involved with ICANN in 2008. I think it was the Paris meeting when I first [inaudible] it.
HOLLY RAICHE	Predates you.

OLIVIER CRÉPIN-LEBLOND: Holly Raiche, who is with us, predates this time. I think she was there a few years earlier. The topic of closed generics is one that has I think predated all of us, probably even predated ICANN. That debate started before ICANN was really created.

The first thing, of course, to ask is what is a closed generic? And what really are we talking about? The first thing we need to speak about is the fact that these are top-level domains. So this is like .org, .net, .com. They're not country code top-level domains like .sg or .cn or .cr or .au for Australia, they are generic top-level domain, gTLDs for short. As we said, they're generic. Well, the way that it happens these days and the way that top-level domains are created as ICANN goes through a full process and then allocate their applications made from a company that becomes a registry, and the registry has full control over that top-level domain. So you think, "Okay, that must be really easy then. Are we going to have a closed top-level domain that's just controlled by one registry? Are we going to have it controlled by more than one entity?" In fact, should the ALAC support closed generic TLDs? The thing is, of course, as we said, the topic has predated all of us. It's predated us by so long because there are various points of view about it. One of them is what is the generic name? Define generic. Defined closed? Define what language should it be in? Should it be generic in all the languages, in one language? It just becomes an absolute kind of word.

But thankfully, thankfully, we have Holly Raiche, who has been spending 15 years—okay, 10 years, at least 10—I know you've been spending more than 10 years on this topic and have been trying to work it out. Of course, she's not the only person to blame for this whole thing. The Government Advisory Council was also involved and in fact the Generic

Name Supporting Organization was involved. In fact, they even saw some public consultations with a complete ICANN community opining about the matter back in 2013, nine years ago, and I'm sure there were even some before then. Right? Are you confused? Well, just quickly here, Holly. If you are, then this is exactly the session for you. And I'm really happy to be able to speak here with Holly Raiche, who, as I said, is an expert on the matter. She's going to try and make a little bit of sense about what's going on.

We are going to make this session hopefully very interactive. So if you have questions after Holly has confused you even more, then please, please go ahead. You can either ask a question in the chat or you can ask your question by raising your hand and you'll be in the queue. I hope there'll be a long queue of questions, and hopefully, a long queue of answers as well or maybe some answers from other people present on the call or from Holly or myself. I think that's it, really. Yeah, let's hear from Holly, what is this thing closed generics? I mean, come on, that should be pretty straightforward to our workout, shouldn't it?

HOLLY RAICHE: I'm not giving that away right now. For heaven's sake, this is a little mystery thing. Thank you, Olivier. I'm going to just recap a little bit of a history. Thank you, Olivier. He has already done that. But the generics have been around a long time. In fact, we think back to the very early days of the Internet back in the 1980s, there were generics. You can think about three or four that first came out .mil, .edu, .gov. They kind of were added to very slowly until long about, oh, just around 2004-05, the GNSO, which didn't exist in the 80s but existed with the beginnings

of ICANN, started to talk about having a process whereby the generic top-level domains could be added to, not bit by bit as they had been, but almost a mess. And they started to talk about it by I think it was 2008, the ICANN Board said, "Okay, you're talking about it, let's have a process. Tell me what the issues are. Tell me what we have to take into account, tell me what it's going to look like. Not only what these are going to look like, what the rules are, what the process is."

So a couple of years went by. We had actually Board approval to proceed in 2008, followed by a couple of years of a lot of discussion. And Olivier was part of that, I'm sure, and certainly Cheryl was— probably wincing at the moment—part of that. We had the development of the Applicant Guidebook. The Applicant Guidebook was going to be the outline of the process for how you would actually deliver these names. What is the process? What is the selection process? What are the criteria? It took a couple more years. But by the end of 2011, we had what was called the Applicant Guidebook, another wince.

That set out the procedures, what we had to think about it, set out the criteria. Roughly in three categories that criteria included looking at the string itself, did it violate any of the rules? Like was it going to violate a reserved name such as Red Cross, the Olympics, other names that were reserved? Was it a geo name? And here's another session of debates about, well, can you use generic top-level domains? Can that include names? And if so, what should be reserved? And that turned out to be countries, it turned out to be capital cities, and there was a great deal of debate on if that should be anything else or not.

Well, finally, a lot of those decisions were made, at least for the first round. And the applications for new gTLDs opened. Now, when I go back on the criteria, the criteria did not include any mention of closed generics. There was simply things like, are the names okay? Does the applicant have the technical and financial ability? Have they come to the intention of ICANN for DNS abuse, any other matters? So as I said, the applications were opened in 2012. By the time of applications, there were 1930 of them. We all remember that number.

The first actual new gTLD was delegated in 2013. And pretty well, straight away, we being ICANN needs to review a lot of the processes to see what went right, what didn't go right. That started off a discussion group in 2014. That very soon turned into one of the longest running GNSO PDPs on Subsequent Procedures. The document that Olivier was referring to in 2013 was a special look at closed generics, trying to figure out what they are, whether they should be allowed with restrictions or not restrictions, and so the debate began.

Now, Olivier has basically outlined what ALAC thinks a closed generic is. Essentially, that's the registry that managed to get the new name delegated, set rules that would in some way close the application or close the use of a name to some or other registries. There's been a debate about what closed generics actually mean. So I'm going to ask anybody if you want to put your hands up what you think closed generic means, because I've had a look at the 2013 paper and they're different views. Anybody got views of what closed generics mean? Because that's what we're talking about. No hands?

Okay. Well, I'll keep going. And just remember that that discussion, and it was a real discussion and it's followed a lot of what people think closed generics is. The terms also in some of the discussions have been used as exclusive generics. So we've got some terminology debates, we've got some definitional debates. And then we have some tests. Are we talking about trademarks? Are we talking about the use of a trademark? Does it have to be absolutely identical? Who can use it? Or is it something else? We'll talk about those debates.

But the first thing I want to talk about are the arguments that were used way back in 2013 and have been replicated almost throughout the Subsequent Procedures as to whether or not closed generics should be allowed. And remember Olivier's discussion, whether the registry that has managed to successfully apply for a name to be able to put restrictions on it. And when we talk about generics, we're talking about words like tennis, books, cars, banks, doctors. Now, is there any reason or any justification for not allowing them or allowing them? Does anybody have some thoughts?

OLIVIER CRÉPIN-LEBLOND: Holly, while people gather their thoughts, I had a list of names here and I wondered whether these were deemed to be closed generics or not, whether you could—I mean because you mentioned criteria and so on. You mentioned books. Is books closed generic?

HOLLY RAICHE: You know, this is one of the debates we had. Should Amazon be able to get books? And if they do, what if they say, "Well, we are going to only

let the publishers of books in the 19th and 20th century be able to use our website"?

OLIVIER CRÉPIN-LEBLOND: It's funny you should mention Amazon. On my list, I had books, I had Amazon as well. Is Amazon a closed generic?

HOLLY RAICHE: And is it a geo name? Remember that debate?

OLIVIER CRÉPIN-LEBLOND: Well, there you go. Can geographic names be closed generics? I had something, I had a house on my list. Is house a closed generic? I had tree. I have apple. Is apple a closed generic?

HOLLY RAICHE: I've got a question here. "Please, could someone here explain to me what's exactly happening with the Red Cross trademark debate in the creation of NPOC in 2011?"

That was one of the debates. Olivier, do we want to go into Red Cross? Because Red Cross is a reserved name or it has been a reserved name based on the fact what it's used internationally. It's an International Governmental Organization. And as such, it's only open to Red Cross organizations universally. It's not a generic name, but that's just it's a reserved name. Can anybody think about—well, book, Amazon—

OLIVIER CRÉPIN-LEBLOND:	I had house, tree, apple. I had Sydney as well. Is Sydney a closed generic?
HOLLY RAICHE:	Aha. Raymond, we had a terrific debate about doctor. Should doctor be a closed generic? What would be the problem of opening it up to anybody? What do you think, Raymond? Cheryl has got the right answer but I want Raymond to tell me why. It is the name of an NGO. Raymond?
RAYMOND MAMATTAH:	Hi. Good morning from Accra, Ghana. I don't think it shouldn't be open to anybody because from my part of the world where people are already pretending to be medical doctors—we call them quack doctors here—they could use this domain to solidify their false claim of being a doctor. So I think it should be one of the reasons why it shouldn't be. I don't know what goes into getting one. But for someone to use it, I think the person should be verified and ensure that the person is indeed a medical doctor before being allowed to use it. That's my thought.
HOLLY RAICHE:	Absolutely. That's right on. That was one of the debates we had. Would you say the same thing for bank? What do we think about using the term bank?

OLIVIER CRÉPIN-LEBLOND: I should say that, in the chat, Cheryl also put the other point with regards to doctor, as in PhD, doctor of philosophy, academics that can call themselves doctor legally. But there's also some brands, Dr. Pepper I think is one of them, isn't it some drink? And there's also obviously PC doctor for companies that are repairing your personal computer. Doctor is a term that is used by non-medical doctors as well. Doctor Spice, there you go.

HOLLY RAICHE: Love it.

OLIVIER CRÉPIN-LEBLOND: This is where it gets very complicated, because when you look at it, you think, "Oh yeah, that's straightforward," but what about the special cases?

HOLLY RAICHE: Exactly. Okay.

OLIVIER CRÉPIN-LEBLOND: An interesting one as well that of course is related to the amount of— and there's always been this debate as to whether domains could be misused by looking legitimate when really they were not legitimate. I think that expands the point of the closed generics. That actually goes into the controlled or special top-level domains where there will be some kind of a threshold by which you could register in them. These are

sensitive names, but that doesn't appear to be a de facto standard on this, is there, Holly?

HOLLY RAICHE: No. That's exactly the point we're raising. Mikhail, you're absolutely right, Doctor Who, Doctor Strange. So I'm just going to go in through some of the arguments that were used. Cheryl and Olivier and I and Justine are very well aware of in terms of what were argued at the time were reasons to allow them or not to allow them. And when we get to one of the reasons why they should not be allowed, you'll see what issues we're raising here. Olivier?

OLIVIER CRÉPIN-LEBLOND: I just want to say that Justine has just put her hands up.

HOLLY RAICHE: Justine, go ahead.

OLIVIER CRÉPIN-LEBLOND: Let Justine say a few words, and then back to you. Justine Chew?

JUSTINE CHEW: Thanks, Olivier. I don't want to complicate the conversation. But I do want to point out that certain words that have been suggested here like bank and doctor are words that fall in a category that is subject to safeguards. There's a safeguard framework that has already been approved by the previous New gTLD Program Policy Committee, so that

framework is still in existence. So there are certain terms that have already been identified. And these terms came from GAC, by the way, the Government Advisory Committee, that fall under this framework that needs to have certain protections around it.

So for example, a registry that applies for bank—and I do believe the bank has already been taken up—but in something like bank, anyone who applies for bank has to show supporting proof/evidence that they are acting for, for example, like an association of banks. So typically, industry-type related terms like banks, doctor, they can't be just applied by anyone without some supporting organization behind it that deals with that industry itself. Okay. So I just wanted to mention that. Thanks.

OLIVIER CRÉPIN-LEBLOND: Is that closed generic?

JUSTINE CHEW: It is to the standard, only banks are allowed to have use of that second level under .bank.

HOLLY RAICHE: That's going to come to the conclusion. Let me just go through some of the arguments that I hope you're beginning to think about. Okay. The arguments against having closed generics or for open would be things like it puts ICANN in the place of being an arbiter of what is or isn't a closed generic, arguments that ICANN shouldn't be dictating business models that in fact somebody has paid for something and they should be able to use it in new ways. There was somebody who said it's a

limitation on free speech—I'm not exactly sure about that—but it's going to kill innovation. It's going to mean everything falls into a one-size-fits-all and it's going to mean that different financial arrangements are ruled out. It's an economic asset and it should be allocated to the highest value uses case. Or one of the statements made was, in fact, it opens up competition. Because if you don't have rules, then it means an infinite variety of names of words can be named. So there was a lot of discussion about, is it appropriate to put rules? Is it appropriate to have a bunch of people set up definitions of what is or isn't? And how's that going to work? Isn't that constraining an asset that somebody has paid a lot of money for?

So there are a lot of arguments about buying something and being able to freely use it. Now, the arguments for closed. The most obvious one that's clear from this panel is the ability if you have closed to at least try to curtail the misuse of names. The possibility of consumer confusion you think you're buying something from a website that says book and you're doing something very differently.

There's also some of the GAC intervention was there are particular names that are a particular concern. Banks, one, doctors another, where in fact if those names are not closed, that is confined to certified medical expertise or financial expertise, whatever, then in fact they could be misused and cause customer or consumer harm. That was one of the strongest reasons to say, well, some names need to be off the free name list. They need to have rules around them because of the possibility of public harm.

There was also, are we talking about something that's anti-competitive. This was the issue that was raised for opening up. But there was an argument surrounding trademark law and saying trademark law gives the owner of the trademark certain rights. This goes beyond that. This isn't an unwanted extension of trademark law. On the other hand, statement generics belong to everybody. Why should somebody lay claim to a name?

OLIVIER CRÉPIN-LEBLOND: Cheryl has put her hand up.

HOLLY RAICHE: Yes, go ahead.

OLIVIER CRÉPIN-LEBLOND: Let's hear from Cheryl Langdon-Orr.

HOLLY RAICHE: Okay.

CHERYL LANGDON-ORR: Thank you very much, Holly and Olivier. Just trying to frame what we're trying to prepare for in terms of this conversation today, because there will be a discussion during the upcoming ICANN meeting within the At-Large community about opinion forming on closed generics. Now, as we've heard from Holly and a lot of people on chat, generic terms are quite common. In fact, generic terms are abundantly common in top-

level TLD applications and indeed now in top-level TLDs. So there's no "Oh my heavens, it's a generic word." Because a generic word, as someone proposed, apple, it's a generic word, it's a type of fruit that's pretty generic, but it is also a brand. So there's a whole lot of things that can lay claim to the same set of letters in a string, right?

Now, a brand owner is going to use their name in a particular sort of way. When it comes to things like the word books and, for example, it's unlikely that books will be seen as a necessarily legitimate trademarkable brand because, as a term, those rules and regulations themselves internationally have certain controls over how generic a trademark can actually be for it to be qualified as such. That being said, it's not that it's a generic word as a TLD that we're going to be discussing, as exciting as all of that discussion and criteria are, and who said, what, when, and how is. It's whether or not a single registrant, a single applicant, therefore, eventually, a single registry can have absolute control over that generic word as a top-level domain. If it's going to be open to all brands at apple fruit growing in the world, everything that has anything to do with apple or shoe is welcome to get their next level names in there, then that's an entirely different conversation. If it's got to do with some of the consumer risks, the misuse abuse, misleading that one could certainly make, and those arguments were made with bank and things like that. One expects a certain expectation if I'm talking about a monetary bank, but it could have been blood banks. So the TLD operator for bank could have said, "If it's got the word bank in it, we're okay." Be it financial or storage of blood and books, it doesn't matter, that fine. But if you say, "I am a well-known book-providing company and I want sole control over the

word book," then everybody else including libraries and other booksellers have a fair and reasonable argument that "Hang on, that means you've locked up that generic word and we have no option to interact." So that's the closed part. It's a closed part that is really, really critical.

It is important to know that things like CPA, which is a reference to certified practicing accountants, there's criteria like law, like doctor, even bank, pharmacy, all sorts of things, then those criteria still have to be met. Justine mentioned that as well. But if you're going to say Company A can have books but it's not the only person who is integral in the book industry, then that's the argument that we need to dig into. Sorry, I just wanted to make sure we were heading in the right direction. Thank you.

HOLLY RAICHE: Thank you.

OLIVIER CRÉPIN-LEBLOND: Holly, I was going to add on top of that—and I think Raymond did put his hands up briefly—but in the chat, do we have cases were closed gradually become open generic?

HOLLY RAICHE: Well, after discussing some of the arguments for and against—and then we can get back to you, Olivier—but where we wound up was, is there a middle road between everything's open or we allow closed for everything. And what there were middle roads in the middle, some of

them are what Justine talked about, which is safeguards. Those are the safeguards for things like doctor or things that if there were not restrictions, say if you are using the doctor domain name, there's some kind of medical qualification, or if it's a bank, it's some kind of financial institution, if there are not those restrictions, if they are completely open, would be one place to wind up.

Another discussion that I remember having very well, are we talking about if it is a community, then the community has to be defined and how do you do that? Is it, for example, a tennis community in which case, does everybody who wants a tennis racket can join? Everybody who would like to take a tennis lesson can join, or only the people who have played tennis four or five years? What does it look like if you have a closed generic?

So we've been fiddling around with some of the restrictions or safeguards to find a way between something where there is no restriction on any of the new names or the ability to have restrictions, the ability for the person, or the company if it's a company, that actually has a license for that name, has a contractual right for that name, to be able to put rules around it. What we've decided is somewhere in the middle—and Justine referred to GAC safeguards where some of those things are pretty sensitive—but getting there, if you remember, was things like, is it community? Is it a community of interest? And how do you define it? Or is it a case-by-case approach? In which case, what are the criteria to decide on a case-by-case approach?

Cheryl's right, we're talking about the extent to which there should or could be restrictions on the use of some names and what's the basis of

that? Is it consumer protection? Is it trademark law? Is it a public interest test? So in terms of where we got to with generic top-level domains, a whole new category using whatever word is the use of that word something that should be controlled or not. That was generally and that still is the issue.

Now, Justine has said, well, we've been through so many committees that—actually, before that, though, Olivier, do you want to talk through some of the ALAC concerns—and we can go through those—as to what ALAC was arguing in terms of closed generics and why the ALAC position was absolute open slather isn't acceptable? And then trying to find a way through what's the middle road?

OLIVIER CRÉPIN-LEBLOND: Thanks for this, Holly. It's a complex issue because I think we've mixed a number of things on there. So we've mixed the ones which are restricted top-level domains or sensitive top-level domains where the ALAC has been quite adamant that we would like to see some control over this as a matter of public interest because these couple of domains could be used for harmful purposes if, for example, .medical or .doctor or others might be misused. So on the one side, the ALAC has been pushing for this. On the other side, the ALAC has understood that if you have .books, for example, well, that doesn't represent a public safety issue in any way. The question is, do we then want any restrictions on these? Do we want a registry to only sell it to specific type of people or even to close it off? Because I think that was one of the questions there. The registry closes it up to anyone else and just keeps it for themselves. In which case, let's say, in the case of .books, I think it was Amazon.

Amazon has purchased .books and basically says, "Every time you type something in your browser that ends with .books is going to turn to some kind of Amazon property of some sort." That kind of drain and basically make a book equivalent to Amazon or the company, Amazon. That's a commercial thing that they want to put forward. Books, of course, is not a trademark in any way.

Then we've got Apple, which is a trademark in some way, so when you do .apple—but that is also a generic name. I think one of the concerns we had of course in the ALAC is that when you look at trademarks, trademarks work under two things. There's a geographic limitation to a trademark, and there's also a use class limitation, as in Apple is for computers. It might be registered in 100 different countries but there might be in another country apple growers of Somerset, which grows real apples and they might have a trademark in their own country for the word apple. Of course, the DNS doesn't have that.

So now you've got this whole mishmash of, one, the trademark problem, two, the problem of the sensitive name, three, the ethical view of whether a company should have exclusivity over a name of some sort. And then four, should ICANN do anything about this? Because that's also a wider issue. Is it ICANN's position to actually do something about this or should it just let everything go and free-for-all? You guys work it out between yourselves. I see Hadia Elminiawi has put her hand up. Let's get Hadia on this.

HOLLY RAICHE: Hadia? Hadia, go ahead, please.

YEŞIM SAĞLAM: Hadia, you are muted.

HADIA ELMINIAWI: Thank you. I guess the problem first begins with that we need to have a criteria based on which a generic name is deemed to be generic. We have mentioned where it's like a bank or maybe insurance. Those actually could be considered community top-level domains. If we take .bank as an example, all domains registered in the .bank must comply with a registrant eligibility policy. The policy determines the organization that can register domain names. And the .bank individuals or entities on the SDN list cannot register. It has some policies. The policy includes an appeal mechanism if the entity is denied eligibility. It prohibits, for example, the use of proxy or private domain name. There are some rules that guard registration, as mentioned before, under this top-level domain. And if we take another, I would say, community top-level domain, like for example, insurance or whatever, then it would be treated differently.

First, we need to distinguish generic names from other top-level domains that have other rules that guard them. We need to clearly distinguish generic names from geo names, from community top-level domains. We need to have some criteria based on which we say, "Okay, this is a generic name." I would say, for example, chair, this is a generic name. Table, this is a generic name. Maybe car, this is a generic name. Once we have agreed that this is a generic name then we can start thinking, "How do we deal with this generic name?"

Here, we need to think which aspects do we need to take into consideration when deciding on the rules that govern registration under the generic top-level domain. So are we going to look at only the industry? Like the registries, the registrars, or industry and the market, maybe, the domain name market? How does this impact the market users? As mentioned before, misuse of top-level domains may lead to victimizing users. We need then to decide on the elements that we need to consider when deciding on the criteria.

HOLLY RAICHE: Hadia, I'm going to interrupt you because I want to go back to the original.

HADIA ELMINIAWI: Okay. Thank you.

HOLLY RAICHE: One of the first questions was what is a generic name? We haven't gone beyond that. We have got a generic name that does fall into classifications, and this is what Olivier was talking about. Some things can be generic but also can be something else. And one of the first issues we have to actually come to terms with would be how do you define generic. It could be that apple is generic, except it has other implications. Bank is certainly generic. It has other implications. So we go back to the first question, which is what we haven't actually completely found the answer to. We've tried to understand the circumstance in which some things that in one circumstance might be

generic, in other circumstances maybe aren't generic, and to what extent will our understanding of both of those require some kind of protection or not.

So we literally were going back. Let's go back to [ToRs]. Do we, as a whole rule, just say there are no rules except everything must be open to all comers so that any new name means that the registry has to say anybody else can use this? It's one option. Do we start to put restrictions on that? Then what are the bases of those restrictions? It may be the safeguards restrictions that the GAC talked about. Because using that name could be in some way misleading or not to the detriment of consumers. It may be that the name actually should be closed. For example, one thing was the GOP is a generic. It was just three letters. But the Republican Party in the United States managed to get it because for 200 years, they've been called the Grand Old Party. And there's some justification for saying in that context it's closed because we've had a look at its use and acceptance over the years, it actually corresponds to something that everybody understands or many people understand. Is that valid? Then if we have anything else, if we have anything that's closed, are we actually asking ICANN through its own processes to make some hard judgments about, are we restricting competition? Which is exactly the issue that Olivier raised. Are we saying, "Well, you can't do this," because there's a good argument for this. Are we actually saying everybody with a registered trademark has automatic rights to something? And what does that do to somebody else who also has a trademark, which normally is bounded by both use and geographic location? Suddenly, you have a name that may violate the trademark in another way.

So once you get away from absolutely open, then you have a lot of questions about how you define something that is or isn't generic, how you actually raise the flag and say, "That is difficult." It will raise issues either in competition or competitive advantage or consumer detriment. Am I indicating how difficult the issues are and how we've reached compromises? But look, let me go back. Olivier, you've got your mic open.

OLIVIER CRÉPIN-LEBLOND: Holly, let me add. I was going to add even more, maybe not confusion but more oil to the fire here. Because, of course, we're all saying, "Well, maybe we should make a determination of whether an application is a community, is a sensitive term, is closed or should be closed or should be open because of these community and sensitive terms. But who makes that determination? That's one big question. In the previous process, there was a process by which there was a determination made and there were appeals being made regarding these determinations. I think that the ALAC did criticize that we believe some of the determinations that were made by an external body to ICANN were not made correctly. That's one thing.

But the second thing, of course is, how do you then enforce things? And I think that Raymond mentioned earlier, someone mentioned earlier, can you start something as a closed generic and then open it up? Because when you apply, you apply with a specific contract and public interest commitments, etc., you could indeed start as a closed generic. But some have actually added a paragraph and said, "We can change this at any time that we want." Maybe they can reopen it afterwards.

And what's the process for this? Or is there a recourse that ICANN has to stop a closed generic from being opened up?

Then there is the ever eternal question from the industry itself and we also have to look at it from the industry itself. If you complicate something too much, if you impose too many restrictions, if you put too many checks and balances that needs to happen for something as simple as a domain name that's going to be sold for $5 a year, then where the hell are we going to make money? This is a commercial operation. What is going on?

HOLLY RAICHE: I love it. I love it. And they are all legitimate questions. I think, what I'm saying is I hope you all attend the sessions on closed generics because it is an issue that is alive and well. There are very legitimate arguments from a variety of viewpoints as to what we should do, as to whether there should be no restrictions. And if there is some restrictions, is it based on what and who decides?

Now, we do know that what was accepted was the GAC safeguards, because some things are seen to cause considerable consumer detriment, for instance, a generic top-level domain doctor. Unless we have also a top-level domain quack doctor, we're probably going to have doctor. So what we have done—and it is a long running debate, I have to tell you. I may wrap up with what the final report of Subsequent Procedures found. Olivier, if you just want to wrap up with what the ALAC position has been. And we can answer any questions. But this is such a long running debate with quite legitimate viewpoints on all sides.

What's happened is the final report of Subsequent Procedures—we're in 2021 here, January 2021 was the final report of Subsequent Procedures. This was one of the first items, even predating the PDP that was established to deal with a range of issues. And the result was there was no result. The advice to the Board was in the absence of a consensus policy recommendation by SubPro with respect to closed generics—well, that's the ALAC. Sorry, that's the ALAC but I won't go there. What I will say is the final report, what they said, and it was only three or four sentences, essentially, the normal situation for a PDP if it can't agree on something, is it goes to the status quo. But what actually is written in the final report on the new gTLD Subsequent Procedures in relation to closed generics was the Subsequent Procedures couldn't even agree on what the status quo was. That was from the final report. And whether or not they would be allowed in the public interest. So we wound up with a final report a year ago saying this working group simply couldn't agree. They couldn't agree with the status quo.

Now, it can be updated. But where we go to after 2021? Six years was an impasse. So we're going to talk about that in ICANN74. We're going to talk about at least what our position is. We can pretty well agree on what the new gTLD is, but from thereon in, closed generics—and this is something that Olivier has talked about as well. What is closed? When is something closed? Why is it closed? Should it be closed? Who sets the rules? Who oversees the rules? And from an ALAC position, Olivier, we've got five minutes. You're on mute.

OLIVIER CRÉPIN-LEBLOND: This is a problem when I mute myself. Thank you for this, Holly. Thanks for setting the scene for something really, really complicated. The ALAC position is one that hasn't changed for quite some time. And I'm basing my argument on the statement of the ALAC that was done back in March, 2013, the public consultation that we had back then. The ALAC had a dream team in fact at the time. Think of Evan Leibovitch, Alan Greenberg, and Rinalia Abdul Rahim, two of whom ended up Board members, the other one, Evan, being a long-time critic of how things happen in ICANN. They came up after, I remember, a lot of deliberations with a one-page statement. I'm not going to do give you the full statement, but the opening paragraph mentions that the ALAC on the hold does not believe that unrestricted closed generics provide public benefits. We prefer that top-level domains, especially for strings representing categories, were not allocated in a way that would lock out broad access to subdomains. Some members of At-Large believe on principles that all closed generics are harmful for the public good. But because it's a very diverse community, others believe that while not necessarily being beneficial to end users, closed generics should be allowed as simply being consistent with existing practice for lower level domains. You have to remember that you can pretty much register anything at the second level. Of course, we've discussed the point about those sensitive terms where the ALAC would wish some control over these domains. Therefore, they would have to be closed generics.

But the summary of the statement that was made was in summary, the ALAC believes that completely uncontrolled use of generic words TLDs is not something that ICANN should be supporting on the one hand. However, some instances of generic word TLDs could be both

reasonable and have very strong benefits of just the salt that ICANN is seeking or was seeking when the top-level domain space was opened up. Such users should not be excluded as long as they can get established that they serve the public interest. You mentioned the works of the group as well that said, "The public interest, it has to serve the public interest." So we're closing one discussion and pointing everything to the public interest. Wait a minute. Is that another discussion that we need to have at ICANN? And indeed it was and it became a huge discussion. What is the public interest?

HOLLY RAICHE: Thank you. Look, I hope what this does is—it is a really, really important issue. It's very important in terms of what a domain name conveys or not. It's a very important issue in terms of the role of ALAC, the GAC, and ICANN itself in coming up with these answers. It's a very important issue in terms of whatever the public interest is. So I hope this means that all of you will turn into ICANN74 into this discussion because it is a long way from over.

OLIVIER CRÉPIN-LEBLOND: And starting with an exit poll that we have. You're not going to get away without being asked questions now.

HOLLY RAICHE: Do we have a poll? I don't think so.

OLIVIER CRÉPIN-LEBLOND: We do. It should be ready.

HOLLY RAICHE: Okay.

YEŞIM SAĞLAM: Shall we start our poll then?

OLIVIER CRÉPIN-LEBLOND: We got a few minutes for it, so let's go for it.

YEŞIM SAĞLAM: Okay. So our first question is how is the technology used for the webinar? Very good, good, sufficient, and not good at all. Okay. I'm not going to spend much time as it's a straightforward answer.

Let's move on to question number two. How did you like the non-formality or format of this event? Like very much, well enough, neutral, ambivalent, dislike, not at all. Again, please cast your votes ASAP. I'm going to end the poll right now.

Let me move on to the third question, which is, did you find the Fireside Chat useful in presenting an overview of the topic? Very useful, useful, sufficient, not useful at all. I'm ending the poll right now.

HOLLY RAICHE: Thank you, Yeşim.

YEŞIM SAĞLAM: Sorry. A couple of more questions. Seven in total. I'm moving on to the fourth question.

OLIVIER CREPIN-LEBLOND: Justify polling.

YEŞIM SAĞLAM: Was the guest speaker helpful in sharing knowledge and addressing questions on the topic? Very helpful, helpful, sufficient, not helpful at all.

I'm, again, closing this question and moving on to the fifth question, which is how many years of experience do you have in the ICANN community? Is it less than one year? One to three? Three to five? Five to ten? Or more than ten years? Again, a very straightforward question. I'm ending the poll for question five right now.

Moving on to the sixth question. It's a short answer question. We're asking for what topics would you like to discuss in future Fireside Chat? I will need to wait slightly longer than the previous ones. I see that we have already received four answers.

OLIVIER CRÉPIN-LEBLOND: Practically typing on their keyboard right now.

YEŞIM SAĞLAM: Nine responses is good. It's coming.

OLIVIER CRÉPIN-LEBLOND: We have a countdown. Ten, nine, eight, seven, six, five, four, three, two, two and a half, two and a quarter. Oh well, one. All right.

YEŞIM SAĞLAM: Okay. Closing the poll. Let me move on to the last question. So would you like interpretation on the next call? Yes or no, please. Again, I'm closing the poll. It's very straightforward. That was the end of the poll questions. Back over to you, Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you very much for this, Yeşim. And thank you so much, Holly, for this. This really is the beginning of a discussion, isn't it? What do we have coming up at the forthcoming ICANN meeting on this?

HOLLY RAICHE: I think we do have a session on closed generics. What I hope from this discussion is that everyone on the call will understand it's not an easy kind of yes or no. It raises lots of issues. It raises issues about competition, about consumer benefit, about what the public interest is about, what role ICANN plays. It's not easy but it is very important for people to understand and to participate in the debate.

OLIVIER CRÉPIN-LEBLOND: Thank you for this, Holly. We also happen to have on the call a person that actually started the call, and that is our Generic Name Support Organization liaison. That is, I wouldn't even say neck deep but head deep into this stuff. That's Justine Chew. Are you having fun?

JUSTINE CHEW: Having fun doing what?

OLIVIER CRÉPIN-LEBLOND: Finding a solution to closed generic. Where are we?

JUSTINE CHEW: Well, I was part of SubPro, right? So I was part of SubPro PDP Working Group, which tried to come to resolution, but we couldn't because there were parties who had helped diametrically opposed positions and we could not get them to come together and come to a compromise, which is why in the SubPro report there is no specific recommendation for closed generics. There is something there, but there is no policy change recommendation for closed generics, which is why there is an upcoming dialogue that the Board has invited the GAC and the GNSO Council to undertake. The reason, because even though there is no policy change to closed generics, there is an existing GAC advice to closed generics, then you should consider making them subject to global public interests. They must serve a global public interest goal.

So the Board is basically caught between not doing this or doing this. And they have GAC advice to consider. That's why they invited the two parties, GAC and the GNSO, to have a dialogue about how to move this

problem forward despite the fact that—I believe that ALAC is going to be part. I can't foresee that we will be excluded in anyway. Let's see what happens. I have no idea. But I'm open to having another goal to see whether we can move the needle towards something that is especially reflective of the ALAC position. In any event, we are past the time. So unless Olivier and Holly have any—

OLIVIER CRÉPIN-LEBLOND: There's just a note from Maureen Hilyard that Jonathan Zuck will be running the session on closed generics that will be specifically geared towards At-Large. So we invite everyone to—first, if you haven't registered for the ICANN meeting, you have to register in advance. Pease register right away if you haven't done so so far. Look out for this session and then take part in it and contribute to it because that's what we need.

HOLLY RAICHE: Excellent. I hope we see you all there.

OLIVIER CRÉPIN-LEBLOND: Thanks, everyone. I think we might have lost Justine. Well, thank you so much, Holly. Thanks to everyone for having taken part in this discussion. Hoping to see you in the next session and with some more questions, comments, and opinions. Justine, you've reappeared.

HOLLY RAICHE: Thank you.

JUSTINE CHEW: I'm so sorry. I got booted out of Zoom. Sorry. My internet is unstable so I got booted out. But I would like to say a big thank you to Holly for taking on this very complicated task of discussing closed generics, and also to Olivier for accepting the invitation to moderate this chat. I hope you guys have actually gained something from it. We'll be looking at the results of the poll that was undertaken and we'll see if we need to make an improvement for the next Fireside Chat. For now, there isn't anything planned yet, not firmed up. So I would invite everyone to just keep an eye out for invitations to the next Fireside Chat going out to the mail list. Thank you, everyone.

HOLLY RAICHE: Thank you.

YEŞIM SAĞLAM: Thank you all. This meeting is now adjourned. Have a great rest of the day.

[END OF TRANSCRIPTION]