

## **GNSO/GAC Facilitated Dialogue on Closed Generics 12 April 2023 Meeting Notes**

During this meeting, Closed Generic (CG) Dialogue Participants continued their review of Section III: “Applying for a Closed Generic gTLD” of the Preliminary Framework for Closed Generic gTLDs v2 document to confirm group agreement with the elements of the CG framework under discussion.

Participants also discussed whether to make the group’s working documents, call recordings and mailing list publicly available following the publication of the draft agreed CG framework. While participants generally agreed that its calls and mailing list should be made public going forward once the framework has been published, several participants expressed concerns with making materials available retroactively, since the discussions and draft documents had been done under Chatham House rules (as agreed in their Participant Commitments). The group agreed to continue to discuss the question via the mailing list.

### **Participants discussed the following proposed framework elements:**

- Whether a CG applicant should be specifically informed that the strength/nature of their stated nexus will be considered in evaluation, and which section of the preliminary framework is the most appropriate place to make this point. Some participants expressed concern that scoring or evaluating the “strength/nature” of a connection would be too subjective and noted that this question should be addressed as part of the elements required for evaluation rather than included in the application phase.
- Whether a CG applicant should show if its own mission serves the public interest, such as by being incorporated as a non-profit or noncommercial organization. Participants agreed that CG TLDs should not be limited to not-for-profit organizations, and discussed ways that other organizations could demonstrate their commitment to the public interest.
- Whether a CG applicant must demonstrate either representativeness or commitment to non anti-competitive behavior. Participants discussed what “representativeness” and “non anti-competitive behavior” entails and how an applicant can be expected to demonstrate these elements. Participants also discussed potential enforceability issues, whether specific attributes inherent in operating a closed generic gTLD (for example, restricting or excluding competitors from second-level registrations) could be said to amount to anti-competitive behavior, and concerns about eligibility and criteria for representativeness.

### **Participants generally came to agreement on the following:**

- “Housekeeping” and administrative matters:
  - The revised work timeline proposed by staff and the addition of another call on 26 April 2023 are useful to ensure continued progress.
  - The two working sessions planned for ICANN77 should be open to observers.
- Regarding the framework:
  - The nexus that CG applicants will be required to demonstrate in their application will be taken into account in evaluating the applications.

- It is not a requirement for a CG applicant to be a not-for-profit organization. If a CG applicant is a not-for-profit organization, the applicant must state whether its mission serves the public interest and explain how. If the CG applicant is not a not-for-profit organization, the applicant must provide specific information about its organization and activities that demonstrate its commitment to the public interest.

**ACTION ITEMS:**

- Participants to consider when it would be appropriate to publish their working materials.
- Participants to review the staff-produced updates to the Preliminary Framework for Closed Generic gTLDs v2 document based on the group's discussions to date, and note any omissions or objections to the clean text on the mailing list.