

## **GNSO/GAC Facilitated Dialogue on Closed Generics**

### **26 April 2023 Meeting Notes**

During this meeting, Closed Generic (CG) Dialogue Participants continued their review of the Preliminary Framework for Closed Generic gTLDs v2 document to confirm group agreement with the elements of the CG framework under discussion. Participants continued the exercise they began in their last meeting, noting for each preliminary framework element whether it represented a “red line” (ie. it must be included, or excluded, in order for the participant to support the final framework) or had notable concerns. Participant responses were recorded by staff in the Participant Red Lines Table document, which participants will review and add their response rationale to following the call.

#### **Participants discussed the following:**

- Participants discussed whether consumer expectations should be considered in the CG gTLD application, and what a “consumer” is in the context of closed generics. This potential framework element will be revisited by the group when it discusses CG gTLD evaluations.
- The group discussed whether an applicant must identify any threats or risks to competition, consumer choice, or the public interest that could be posed if their CG gTLD is delegated, as well as provide supporting evidence and specify how they will mitigate these threats and risks. Some participants expressed concerns about how this would be objectively evaluated, and whether it is reasonable to ask applicants, who are not competition experts, to provide evidence why they should not have the CG gTLD.
- Participants discussed whether an applicant should also identify sectors of the public that may be disadvantaged by its CG gTLD. One participant noted that it is unlikely that any applicant will affirmatively state that its CG gTLD will disadvantage others.
- While the group has identified several policy and implementation-related questions in previous discussions, these questions will be considered for inclusion in the framework after the group completes its review of the primary framework elements.
- Participants discussed whether the evaluation of CG gTLD applications must be performed by a panel consisting of more than one individual, or consisting of several individual experts.

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

- The group broadly agreed that the statements made by the applicant in their application must be truthful, and the applicant must commit that the closed generic gTLD will not be used for fraudulent or illegal activity.
- Three framework elements under discussion were identified as duplicative of other elements already agreed to by the group, therefore participants agreed to remove these duplicative elements from the final framework.
- While some concerns were noted about its placement in the framework, the group broadly agreed that an applicant must explain and make explicit commitments to the steps it will take to ensure the closed generic gTLD will serve, and continue to serve, the relevant public interest goal(s). These clear commitments must demonstrate how the

applicant intends to serve the public interest, and they must be objective, measurable, enforceable, and subject to monitoring and review.

- The group agreed an applicant for a closed generic gTLD bears the burden to provide evidence of eligibility throughout the application and evaluation process.
- The application process for closed generic gTLDs will, to the greatest extent possible, be the same as for standard gTLD applications, but there will be additional criteria for closed generic gTLD applications. One participant noted that this applies to all sections of the final framework, not only the application process.
- The evaluation process for closed generic gTLDs will, to the greatest extent possible, follow the process applicable to standard gTLD applications, although there will be additional process steps for closed generic gTLD applications. One participant noted that this framework element is duplicative.
- The group broadly agreed there is value in public interest goals that serve a very broad intended public, and there is also value in public interest goals that serve a targeted intended public.
- The group agreed that the public interest is a broad concept and should not be limited by the ICANN Global Public Interest (GPI) Framework or the ICANN Bylaws, i.e. a closed generic gTLD can serve a public interest goal that goes beyond ICANN's mission.

**ACTION ITEMS:**

- Participants to review the Participant Red Lines Table document and provide rationale for their noted red lines and concerns.
- Staff to update the clean Closed Generics Framework v3 document with additional broadly-agreed framework elements based on the group's discussion.