

GNSO/GAC Facilitated Dialogue on Closed Generics 21 August 2023 Meeting Notes

In their [joint letter](#) to the Closed Generic (CG) Dialogue participants, the GAC/ALAC/GNSO Chairs requested that the group's work to date be thoroughly documented. To ensure clarity on the points of view presented in the community's [feedback](#) on their [Draft Framework](#), the group invited the feedback authors to join their CG meeting, should they wish to provide further explanation of their feedback for completeness of the record. Three GAC representatives (representatives of the United States (US), European Commission (EC), and Lebanon) accepted the group's invitation, and during the call they answered clarifying questions from the Dialogue participants. The participants then discussed potential updates to the draft Outcomes Report shared by staff.

The below notes provide a summary of the discussions; to view the entirety of the GAC representatives' inputs, please refer to the call recording and/or audio transcript [here](#).

Dialogue Participants discussed the following with the GAC members/input providers:

- Whether the GAC representatives would like to elaborate on their submitted feedback regarding CG consequences to competition, markets, human rights, privatization and closed nationalization of sections of the Internet information space.
 - The GAC representative from the EC noted that these risks were discussed in 2012 and since then there has been an increased emergence of monopolies and large platforms dominating certain market segments. While the economic value of CG gTLDs is understandable, their social value is less clear and would seem to be outweighed by the risks to competition.
 - The GAC representative from the US noted that their national position is that CG gTLDs present competition concerns. The representative would like to ensure that the Outcomes Report reflects the inputs of the GAC and the community.
- Whether the US government has conducted an analysis on Closed Generic gTLDs, which may provide insight on the competition concerns associated with CG gTLDs and the potential market for these TLDs.
 - The GAC representative from the US noted that the US government has no evidence that CG gTLDs will promote innovation or the public interest. The US GAC representative noted these gTLDs have the potential to harm competition by limiting the opportunities of businesses operating in the market to which the gTLD relates from competing on equal terms. The businesses most likely to be able to acquire a CG gTLD are already prominent in their market and might therefore use the gTLD to cement their leading position.
- Whether the GAC's feedback that "*...the introduction of 'private interests' in the Draft Framework is misleading and should be re-considered completely...*", is a modification or clarification of its advice from the 2013 Beijing Communique, helping to demonstrate what serving the "public interest" may look like.

- The GAC representative from the US expressed their understanding that if the Dialogue group cannot reach a framework then the status of CG gTLDs remains the same, whereby the GAC's standing advice maintains that a CG gTLD may only be granted if it is in the public interest. The GAC representative from the US noted that they were not a penholder for this GAC feedback submission.
- The GAC representative from the EC noted that it is not clear from the Draft Framework what is the acceptable balance between the applicant's commercial interest and the public interest, and how they would be enacted in reality.
- Dialogue participants acknowledged that to apply for a gTLD, applicants will want to receive a benefit, but that benefit should not undermine the public interest. It was not intended that a commercial interest can transform into a public interest. By requiring that the public interest and the intended purpose of the CG gTLD must go beyond the applicant's commercial interest, the Draft Framework attempted to provide examples of what is not acceptable.
- Whether the Dialogue group should take on the task proposed in the GAC's feedback, urging them to answer why operating the gTLD in a closed manner, as opposed to an open manner, better serves the public interest.
- Whether the GAC representatives would like to clarify their feedback regarding the identification of risks.
 - The GAC representative from the EC noted that the possible risks should be pre-identified as guidance for the applicants, and there should be external judgment of the applicants' risk assessments. It may be difficult for applicants to see the whole picture and comprehensively identify all the risks involved.
 - Participants noted the Draft Framework intended the CG applicant as well as commenters to identify any risks associated with the CG gTLD. Regarding a potential list of risks, the Dialogue group conducted relevant exercises early in its brainstorming work which may be useful.
- Dialogue participants thanked the GAC representatives for the clarifications they provided pertaining to the GAC's feedback on the Draft Framework. The GAC representatives then disconnected.

Dialogue Participants continued their call with an internal review of their draft Outcomes Report, discussing the following:

- Whether the Board's 2015 decision regarding CG gTLD applications should be specifically linked within the Outcomes Report.
- Whether dates should be specified with the links in the Outcomes Report so readers can know when certain events occurred without having to click each link.
- Whether direct quotes and greater details from the community's feedback submissions should be included in the group's Outcomes Report. Some participants expressed concerns that this may be viewed as cherry-picking or elevating some comments over others, and without proper context may run the risk of oversimplifying the feedback. The group should discuss collectively which comments, if any, it would like to highlight in its

Outcomes Report. To initiate such discussion, participants agreed to share their suggestions as comments within the draft Outcomes Report document.

- Whether the following pieces of the draft Outcomes Report should be updated: 1) the characterization of the questions annexed in the Draft Framework; 2) the group's working method of accepting individual elements then assembling them into a full draft framework; 3) mention that the community may decide whether any part(s) of the Draft Framework (rather than the framework as a whole) is usable for future work on this topic; and 4) clarification that the issue of CG gTLDs is not irresolvable, but the amount of time it would take to resolve the issue is problematic, vis a vis the upcoming next round of new gTLDs.

Dialogue Participants generally came to agreement on the following:

- Participants agreed to provide their comments, suggestions, and proposed additions/deletions within the draft Outcomes Report document, available to participants in their shared Google Drive.

ACTION ITEMS:

- Staff to update the draft Outcomes Report document to include a footnote to the 2015 Board resolution concerning CG gTLDs, and dates for the relevant linked documents.
- Participants to add their comments, if any, to the draft Outcomes Report document before their next meeting on 28 August 2023 at 12:30 UTC.