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10, 10a, 10ai, 10aii, 10b, 10bi, 10bii, 10biii	Yes	Tucows, RySG, ISPCP, GAC, BC, ALAC	
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Approach to a Baseline Understanding of Closed Generic gTLDs

For purposes of the Facilitated Dialogue on Closed Generic gTLDs, it was necessary for the group to have a shared understanding of concepts relevant to closed generic gTLDs. Bearing in mind relevant definitions found in the [Base gTLD Registry Agreement](#), Section 2.9(c) ("Affiliate") and Specification 11, Section 3(d) ("Generic String"), the group agreed that there are several other relationships and entities beyond the narrow definition of "Affiliates" that must be included as potential registrants and beneficiaries in a closed generic gTLD, depending on the operational model of the gTLD.

Specifically, the group identified (a) members of a trade association, where the trade association is the registry operator, (b) independent chapters that are members of a larger federation or organization[1] where that federation/organization is the registry operator, and (c) members of a consortium of similar organizations, where the consortium is the registry operator. The policy group that takes up the Closed Generics issue may identify additional relationships and entities. Please note, these additional categories would be their own sub-group (separate from Affiliates) that applies only to Closed Generic gTLDs. These should not impact any other types of new gTLDs including Open, Community, Geographic or other types of new gTLDs set forth in the [New gTLD Subsequent Procedures Final Report](#).

[1] The Facilitated Dialogue group discussed various organization types that might serve as examples for these additional categories; for instance, the International Red Cross & Red Crescent Movement, Big Brothers/Sisters and other similar not-for-profit international organizations.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	RySG	**[...]** A definition of what constitutes a Closed Generic has not been proposed in the Framework, nor appears to be agreed upon. While the Problem Statement & Briefing Paper for the work of the Facilitated Dialogue provides a 'proposed definition', it's unclear from the Draft Framework if it formally adopts that definition as the basis of its work.[2] An agreed upon definition of a Closed Generic TLD is an essential component before moving the concept to policy development. **[...]** [2] Problem Statement & Briefing Paper, "Closed generic" gTLDs, also sometimes described as "gTLDs with exclusive registry access", are understood to be gTLDs representing a string that is a generic name or term under which domains are registered and usable exclusively by the		

		registry operator or its affiliates. Specifically, the Base Registry Agreement for the 2012 New gTLD Program, Specification 11, section 3(d) states that: "a 'Generic String' means a string consisting of a word or term that denominates or describes a general class of goods, services, groups, organizations or things, as opposed to distinguishing a specific brand of goods, services, groups, organizations or things from those of others." A Registry Operator of a 'generic string' top-level domain (TLD) may not impose eligibility criteria for registering names in the TLD that limit registrations exclusively to a single person or entity and/or that person's or entity's "Affiliates" (as defined in Section 2.9(c) of the Registry Agreement).As part of their initial discussions, dialogue participants may want to consider whether the above-noted definitions are appropriate or whether additional clarification may be needed with respect to the definitions of "closed," "generic," and "exclusive registry access" in the gTLD context. **See full input: [Link](#)**		
2	GAC	**[...]** The first area identified by the GAC to be explored further is the lack of definitions of key concepts such as public interest or representativeness, which the Draft Framework is based on. The GAC notes that the lack of such definitions may hinder understanding how the framework could work in practice, and may indicate a difficulty in agreeing on such important concepts. GAC members consider that basic definitions should be included in the Framework. At the same time GAC members are mindful that a working definition of such concepts, which is necessary to make immediate progresses on this exercise, may be further detailed in the potential subsequent Policy Development phase, but wishes to note that attributing the interpretation of these concepts to the evaluation panel presented in the Draft Framework would not be an adequate response to the policy challenges raised by Closed Generic gTLDs. This may entail failure to citizens and communities since governments would be delegating to unknown individuals the responsibility of discussions and decisions that relate to core societal values. **[...]** **See full input: [Link](#)**		
3	BC	**[...]** The BC appreciates the expansion of understanding about eligibility to apply and operate a closed generic gTLD, however, when talking about trade associations or a consortium of similar organizations, it needs to be recognized that there may be multiple such organizations for a single industry or focus area, and awarding the use of a generic name to one group may create consumer confusion and not meet the public interest. How would such a situation be addressed during the application process?		

		We also ask if the Facilitated DIalogue group intends not to permit a **single corporation** to apply for a closed generic gTLD? Our reading of the framework suggests that only **representative organizations** could fulfill the application criteria. **[...]** **See full input: Link**		
4	ICANN org	**[...]** a. ICANN org understands that the dialogue group took into consideration the current definitions of "Affiliate" and "Generic String" in the Base gTLD Registry Agreement in developing its proposal that certain types of relationships and entities could be included as potential registrants or beneficiaries in a closed generic gTLD. ICANN org believes that it will be necessary, either during this facilitated dialogue, or during a future policy development phase, as appropriate, to objectively define the scope of these relationships and entities that should fall in this expanded category so that the dividing line between a "closed" gTLDs and other types of restricted gTLDs is clear. For example, an EPDP could provide a policy recommendation specifying the types of organizations that would be within the scope of the related entities in this category that should be included as potential registrants or beneficiaries in a closed generic gTLD. Additionally, more guidance would be needed to understand the boundaries of what constitutes a "generic string". **[...]** **See full input: Link**		
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The Application Process

The Application Process:
1. 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.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	GAC	**[...]** The GAC understands the desire to keep the application process simple and in line with other gTLDs (**element 1**), however it wishes to note that Closed Generic gTLDs are a distinctively new category that might present high socio-economic risks and implications from a policy perspective. The attribution of Closed Generic gTLDs, and even more so the attribution to the wrong candidates, could have severe consequences not only from a competition/market but also from human rights perspective underlying the open Internet, with the privatization or closed nationalization of entire sections of the Internet information space based on what is a currently undefined "public interest". Therefore, the delegation of Closed Generic gTLDs, if at all agreed by the ICANN community, should follow a specific and carefully thought-through application process and should not be a simple expansion of the general gTLDs procedures. In view of the specific features and risks raised by Closed Generic gTLDs, the application process should not merely replicate that for standard gTLDs. In addition to the "additional" criteria, "*criteria specific to the risks inherent in closed generics*" should be specified (**element 1**). **[...]** **See full input: [Link](#)**		

		Do not support		

The Application Process:
2. The criteria for closed generic gTLDs must be clear and published in the final Applicant Guidebook in advance of the application window for a new gTLD round.[2] [2] This should be consistent with Recommendations and Implementation Guidance 12.4-12.9 from the [New gTLD Subsequent Procedures Final Report](#). See [Annex 3](#) for details.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	RySG	**[...]** In addition, we note that Section 2 must be clear to the extent it addresses the criteria for closed generics. In addition, remaining consistent with SubPro Recommendations 12.4-12.9, which call for the Applicant Guidebook to be clear and drafted with users in mind is important. Providing straightforward, thorough instruction in advance is important for predictability in any future application process that would be commercially feasible for applicants to participate in. Lastly, modifying the language in Section 2 as follows would clarify the timing for publishing the closed generic criteria: "The criteria for closed generic gTLDs must be clear and published ~~in the final Applicant Guidebook~~ in advance of ~~the~~ **an** application window **that allows for closed generic gTLDs** ~~for a new gTLD round~~." **[...]** **See full input: [Link](#)**		
2	ALAC	**[...]** While the framework rightly points to language in the Subsequent Procedures Working Group Final Report, supporting the notion of predictability for applicants**,** it is the view of the ALAC that, all things being		

		equal, the award of a generic string, for the exclusive use of one entity, should be denied. Such a system bias, if agreed to by the community, should be made explicit *and* predictable. **[...]** **See full input: Link**		
		Do not support		

The Application Process:
3. The applicant for a closed generic gTLD bears the burden to provide evidence of eligibility throughout the application and evaluation processes.
a. The applicant should provide detailed explanations to enable a thorough evaluation of its application. Abstract or generalized statements may not be sufficient for evaluation.   **b.** The statements made by the applicant in their application must be truthful, in line with Section 1, Module 6 of the 2012 gTLD Applicant Guidebook.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	GAC	**[...]** All the information requested from each applicant should include a high degree of precision, which implies reinforcing the language. For example, "*abstract or generalized statements will not be sufficient for evaluation*" (**element 3.a**). The precision required in applications necessitates definition of the public interest, the scope of which is not at the discretion of the application (**elements 4; 5; 7; 8; 9; 10; 13; 15**) and precisely defining it clearly in the Draft Framework. While the GAC appreciates that the burden of proof to establish eligibility falls on the applicant (**element 3**), this approach requires stronger definitions of key terms and requirements within the present Draft Framework as to leave no space for unintentional or intentional wrong interpretations from the applicants. Additionally, for consistency with **element 21.a.**, some guiding questions should be made available for applicants to answer as a basis for evaluation. If relevant, more information can be provided by the applicant. **[...]** **See full input: Link**		

2	BC	**[...]** We agree that the applications must contain no abstract or generalized statements. The prospect of an applicant being able to modify the intent of its closed generic gTLD due to vague criteria should not be accepted. We are interested to know if this was part of the rationale for the Facilitated Dialogue team's decision on this matter. **[...]** **See full input: Link**		
		Do not support		

The Application

The Application:
The applicant for a closed generic gTLD must provide the following information in its application:
4. Specify the public interest goal(s) that the closed generic gTLD is intended to serve. In discussing the public interest being served, the applicant and the application's evaluators should keep in mind that:
a. The applicant must also demonstrate how its closed generic gTLD will serve the broader public interest; for example, by providing a positive societal benefit or contributing to the general welfare and wellbeing of the public.[3] For clarity, this requirement will apply to all closed generic gTLD applicants, including those whose proposed closed generic gTLD is intended to serve a public interest goal(s) targeted toward a small intended segment of the public. The public interest goes beyond the commercial or individual interest of the applicant.   **b.** There is value in public interest goal(s) that serve a very broad intended public. There is also value in public interest goal(s) that serve a targeted intended public.   **c.** 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 own mission.
[3] The Facilitated Dialogue group notes that "wellbeing of the public" generally signifies the state of the public being contented, happy, healthy, or prosperous, and "general welfare" refers to the state of doing well, especially in respect to good fortune, happiness, health, comfort or prosperity of a whole community. For online references, see the Collins Online Dictionary (https://www.collinsdictionary.com/), the Merriam-Webster Dictionary (https://www.merriam-webster.com/), and Black's Law Dictionary.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
1	ISPCP	**[...]** the ISPCP supports the notion that a closed generic gTLD should serve both the global public interest and a public interest of a single community. **[...]** **See full input: [Link](#)**		
2	BC	**[...]** In keeping with the need for use of a generic name to be clear to consumers, the focus on Public interest, which goes beyond commercial or individual interest of the applicant, is imperative. **[...]** **See full input: [Link](#)**		

		Concerns and Clarification		
3	RySG	[...] Another potential concern is the discussion of defining the 'public interest' by the Draft Framework or potential applicants. This has been the subject of long discussion across the Community and any potential definition in the Draft Framework or via an application could set a definitional precedent not vetted by the Community. [...] **See full input: Link**		
4	GAC	[...] On framework **elements 4, 7, and 8**, the GAC notes that the concept of "public interest" must not only be defined in the framework but also the adopted definition should be workable/operationalizable. This definition is crucial as the Draft Framework relies on this notion to ensure that Closed Generic gTLDs add value to broader or smaller communities. Otherwise, the GAC notes there could be no convincing rationale for why operating the gTLD in a closed manner, as opposed to an open manner, would be a better fit. [...] **See full input: Link**		
5	ALAC	[...] The requirement that the applicant justify their proposal with a public interest is not an invitation to creativity but rather the expression that it should be the *exception* when such a string is granted. [...] **See full input: Link**		
6	ICANN org	[...] b. The Governmental Advisory Committee referred to the concept of 'public interest' with regard to closed generic gTLDs in its 2013 Beijing Communiqué. ICANN org notes that it is likely to be very difficult to develop a universal, agreed definition of what is in "the public interest", but consideration could be given to whether further guidance can be provided to objectively define what it means for any TLD, including a closed one, to serve a public interest goal. It may well be more appropriate for this discussion to be part of the substantive policy discussions expected to take place in the anticipated EPDP, and our feedback on this point should not be taken as indicating the specific forum in which this discussion should take place or its outcome. [...]		

		See full input: **Link**		
		Do not support		

The Application:

5. Explain the purpose(s) of the closed generic gTLD.

    a. The applicant must provide information clearly describing the intended purpose, which must not be to solely exclude other parties from using the gTLD or solely serve the applicant's own commercial interests. The purpose must relate to the specific public interest goal(s) stated by the applicant in its application.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	BC	[...] The BC agrees that the granting of a closed generic gTLD must not exclude other parties that are engaged in the same scope of function. However, the framing in the draft using the word 'solely' stands in the way of accomplishing these goals. An applicant could easily satisfy this condition by simply asserting that their planned exclusion of competitors was not their 'sole' purpose in closing the TLD to registrations. Moreover, even if the TLD is open to competitors to register names, the generic TLD operator can still confuse users by its unregulated use of "reserved" second level names. For example, the generic TLD operator can control content on domains such as search.TLD, info.TLD, eco.TLD, family.TLD, reviews.TLD, best.TLD, etc. It's easy to see how the TLD owner could bias content and search results on those consumer information sites, without consumers being fully aware that the content was controlled by a single competitor. This concern is not addressed by requirements that competitors could not be prevented from registering names. However, concerns about biased content are arguably beyond the scope of ICANN and are rightly the concern of		

		consumer protection authorities. Still, the application process should require a closed generic applicant to disclose the policies they would follow in managing reserved second level domains. And this disclosure would inform the public interest evaluations for the application. **[...]** **See full input: Link**		
<td colspan="5" align="center">**Do not support**</td>

The Application:
6. Explain in detail how the applicant intends to use the closed generic gTLD in practice.
a. As part of its explanation, the applicant must include a description of its intended second level domain (SLD) management/delegation rules.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
		Do not support		

The Application:
7. Provide clear and concrete rationale for why operating the gTLD in a closed manner, as opposed to an open manner, better serves the identified public interest goal(s).

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	GAC	**[...]** Additionally, the GAC urges members of the facilitated dialogue group to specify the following point prior to it being asked of applicants: "*Provide clear and concrete rationale for why operating the gTLD in a closed manner, as opposed to an open manner, better serves the identified public interest goal(s)*" (**element 7**). **[...]** **See full input: Link**		
		Do not support		

The Application:

8. Whether a for-profit or nonprofit/not-for-profit/public benefit entity, the applicant must provide specific information about its organization, mission (if applicable), and activities that demonstrate its commitment to the public interest.

    a. The credentials and credibility of the applicant will be assessed, in order to give reasonable confidence that they can and will fulfill their commitments.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	GAC	[...] Furthermore, the GAC considers that the introduction of "private interests" in the Draft Framework is misleading and should be re-considered completely, and if kept, the final draft should include a concrete way forward to define what level of commercial or individual interest is acceptable and when/whether this is compatible with public interest. The GAC reiterates the difficulty in evaluating organizations' commitments to public interest in the absence of a shared operational definition of the latter (**element 8**). Different societal and legal frameworks in different geographical contexts can lead to very diverging interpretations of what public interest is, potentially leading to lengthy discussions and legal proceedings to decide whether a specific applicant's understanding of Closed Generic gTLDs is in line with others' values and views of what 'public good' is. The final framework should be fully persuasive that the ICANN community is not moving towards a process that could lead to its own paralysis. Additionally, the specific information outlined in **element 8** should include the number of years of activity, followed by the list of activities per year. [...] **See full input: Link**		

2	ALAC	[...] Every system, or "framework," has a built-in bias or default, to resolve "close calls" within the system. The ALAC believes that the bias, with regards to so-called "Closed Generics" should be against the monopolization of common terms by a single entity, particularly a commercial or commercially-led entity. [...] **See full input: Link**		
		Do not support		

The Application:

9. Provide evidence demonstrating the nexus (i.e. strong connection) between (1) the applicant, (2) the closed generic term being applied for, (3) the public interest goal(s) specified in the application, and (4) the applicant's intended use of the gTLD.

    a. This connection and the quality (i.e. reliability, statistical significance, or method) of supporting evidence will be taken into account when evaluating the application.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	GAC	[...] The GAC expresses concerns about a potential contradiction in the case of private sector entities on demonstrating the nexus between the applicant and the Closed Generics term (**element 9**). For private sector entities it may indeed seem relevant to not be connected to the object of the Closed Generic application (as not to raise competition or market dominance concerns) while at the same time they are requested to prove that they have a strong connection with this area. The GAC notes lack of clarity on how this contradiction can be cleared up within the current Draft Framework. [...] **See full input: Link**		
		Do not support		

The Application:

10. Demonstrate the requirement of representativeness OR of non anti-competitive behavior.

    a. Track 1: For "representativeness", applicants must demonstrate that the applicant represents all or a significant part of the businesses (or has their agreement) in the industry or group related to the closed generic term.
        i. This criterion can be fulfilled, for example, by the applicant being an umbrella organization of the industry in question.
        ii. The application must show that significantly "interested parties," including competitors, have been consulted and engaged for input prior to submission of the application.

    b. Track 2: For "non anti-competitive behavior", applicants must commit that its use of this closed generic gTLD will be consistent with principles of competitive neutrality[4], non-discrimination[5] and transparency[6]. This commitment must be reflected in the registry operator's contract with ICANN, which may be in the form of a Code of Conduct or as part of a Specification to the extent that one is developed to govern a registry operator's use of a closed generic gTLD.
        i. This criterion builds on the requirements that applicants of closed generic gTLDs must state their public interest goal(s) and intended purpose for the gTLD, and the intended purpose(s) must not be to solely exclude other parties from using the gTLD or to serve the applicant's own commercial interests.
        ii. Recognizing that the nature of a closed generic gTLD involves exclusive registry access to second-level domains under that gTLD string, this criterion is intended to ensure that an applicant does not misuse its control of a closed generic gTLD to undermine the public interest.
        iii. Exclusive registry access and single entity control of a closed generic gTLD does not, in and of itself, violate the principles of competitive neutrality, non-discrimination or transparency. Evaluators should bear in mind this exclusive nature of closed generic gTLDs when considering any anti-competition concerns.

[4]"Competitive neutrality" in this regard means that the applicant will not use its control of the closed generic gTLD to gain an advantage in the market or segment of the public toward which its use of the gTLD is directed, to the detriment of its competitors and other entities also operating in that market or sector.

[5]"Non-discrimination" in this regard means that the applicant will act fairly in respect of all third parties that also provide the same goods, information or services to the same target market or segment of the public, and will not exclude access to its goods, information or services on the basis of race, color, religion, sex, age, or other attribute generally recognized as protected categories or classes of people.

[6]"Transparency" in this regard means that the applicant will operate its closed generic gTLD in a manner consistent with these principles by establishing, publishing, and adhering to policies governing its provision of goods, services or information through the gTLD.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	Tucows	**[...]** The requirement that an applicant for a Closed Generic TLD be the representative of the relevant industry or group can lead to multiple valid competing representatives claiming priority—and only one can be granted the delegation. The potential efficacy of an alternative requirement to commit contractually to "non anti-competitive behaviour" is similarly unclear, since a Closed Generic TLD is inherently monopolistic and ICANN is ill-suited to adjudicating such disputes. **[...]** **See full input: [Link](#)**		
2	RySG	**[...]** In addition, criteria outlined in the Draft Framework that applicants commit to certain anti-competitive behavior could put ICANN in the position of enforcing on issues related to competition. These issues are outside the scope of the Facilitated Dialogue and would require policy development processes. Additionally, they raise questions as to the fundamental scope of ICANN's mission. **[...]** **See full input: [Link](#)**		
3	ISPCP	**[...]** The ISPCP notes that the contractual commitment to "non anti-competitive behavior" subject to the alternative track of a closed generic gTLD application may be challenging to enforce once the TLD is delegated and the Constituency would encourage the policy work to further develop enforcement principles as they relate to this particular commitment. **[...]** **See full input: [Link](#)**		
4	GAC	**[...]** Pertaining to the concept of "representativeness" (**element 10.a**), some GAC members consider that this idea may prove unworkable at the global		

		level. Unless there is a commonly agreed definition of what "*all or a significant part of the businesses*" means, it is unclear how this notion could be interpreted at the local, regional, national or global levels and how conflicts between different applicants and constituencies could be resolved. Those GAC members therefore raise the following questions for the facilitated dialogue group's consideration: ● How would a regional application for a domain like .volunteering compete against another regional or global application? ● Would a regional applicant always be less representative than a global applicant? ● How could representativeness be considered at different geographic levels and within communities that are structured to many different extents in associations or umbrella organization? GAC members note that even within a theoretical framework where a significant level of global "representativeness" can be defined, full control over a generic gTLD casts serious questions about its effects on market openness and contestability. These questions need to be addressed ex ante for new gTLD rounds to avoid raising countless tensions between communities. On **element 10.a.ii**, the GAC notes that a consultation should include a public announcement or media release in the relevant community or professional assembly. **[...]** **See full input: Link**		
5	BC	**[...]** In 10.a, requiring the applicant to be representative of all or a significant part of the businesses in the industry or group (or has their agreement) is a step toward ensuring nobody is excluded. However, in cases where there are multiple industry groups, trade associations or consortia of similar organizations as outlined above, it is possible for an applicant to omit engaging with those that may oppose the applicant's mission or scope. In so doing, the application does not meet the intent of this section. How can this be addressed as part of the application process? In 10.b, it must be clear that the three criteria (competitive neutrality, non-discrimination, transparency) are not isolated in evaluation. While each is		

		distinct, an applicant could violate one but pass on others. All three must be evaluated in each application. **[...]** **See full input: Link**		
6	ALAC	**[...]** While the notion of scenarios is discussed, the proposed framework would benefit from their more explicit use to highlight the intentions of the drafters. Instead, the framework often relies on vague, abstract or possibly overly legal definitions that simply postpone the discussion about validity. In particular, the distinction between representative organizations and those with no anti-competitive intent should be made clearer. **[...]** **See full input: Link**		
		**Do not support**		

The Application:
11. Identify the relevant sector(s) of the public that will benefit from, and any other intended beneficiaries of, the closed generic gTLD.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		

1	RySG	[...] with respect to Sections 11 and 12 of the Draft Framework, the framework would be more in line with SubPro recommendation 12.4 regarding clarity for users and thus be more commercially feasible if applicants were asked to explicitly identify an application as requesting a closed generic gTLD. An explicit identification would also aid evaluators in assessing these applications. The following two suggestions would add clarity and bring the Draft Framework in line with policy recommendations:
		
		    1. Add a new section before the current Section **4** of the Draft Framework which says: "Self-identify [e.g., via a check box] that this application is a request for a closed generic gTLD."
		
		    [...]
		
		See full input: Link		

		Do not support		

The Application:
12. Explain what types of goods, services, groups, organizations, products, things, etc. are described by the generic term for which the applicant is applying.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
**Support**			
**Concerns and Clarification**			
1	RySG	**[...]** 2. Move Section 12 after the new section suggested directly above **[11]** and before the current Section **4** and make the following redlined modifications for clarity: "**(1) Indicate the language of the generic term, and (2)** e~~E~~xplain what ~~types of goods, services, groups, organizations, products, things, etc. are described by~~ the generic term **describes** ~~for which the applicant is applying~~. **[...]** **See full input: Link**		
**Do not support**			

The Application:
13. Identify any threats or risks that could reasonably be posed if the closed generic gTLD is delegated, and detail the specific mitigating actions that the applicant plans to take to minimize these threats and risks.   **a.** Evaluators should review the threats and risks to competition along with the proposed mitigating actions and public interest goal(s) of the closed generic gTLD.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	GAC	[...] The GAC stresses the importance of the identification of risks associated with Closed Generic gTLDs and possible mitigation actions (**element 13**). As such, the GAC notes that this identification of risks or threats should not be left to the appreciation of candidates. In the final framework document, the GAC asks for the inclusion of a preliminary reference list of risks, as well as a procedural consideration of an external control or validation of the risks and related risk mitigation strategy. [...] **See full input: Link**		
2	BC	[...] This appears to be more suited to Public Comment and intervention than to the applicant. An applicant could provide reasonable explanation to risks that do not reflect the ultimate impact of improper delegation of a gTLD. The intervention needs to have equal footing. [...] **See full input: Link**		
3	ALAC	[...] The ALAC believes that the risks, associated with such a gTLD, will outweigh the benefits in most cases. [...]		

		See full input: **Link**		
**Do not support**
4	RySG	**[...]** Sections 13 and 13.a of the Draft Framework are likewise not in line with SubPro Recommendation 12.4. At best, these sections ask an applicant to predict why external parties may want to object to its closed generic application. At worst, these sections require an applicant to supply external parties with reasons to object to its application. An AGB that directs applicants to thoroughly lay out the proposed use and public interest benefit of the closed generic gTLD would be sufficiently in line with SubPro Recommendations. **[...]** See full input: **Link**		

The Application:
14. Demonstrate how the applicant will engage in self-policing and self-regulation efforts to govern compliance throughout the term of the registry agreement.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	GAC	**[...]** The GAC notes that beyond self-policing and self-regulation, candidates and processes should also be expected to comply with existing legislations and policies (i.e., competition and consumer protection rules) (**element 14**). **[...]** **See full input: [Link](#)**		
		Do not support		

The Application:
15. Demonstrate how the applicant will comply with the following obligations through objective, measurable, and enforceable commitments, subject to monitoring and review.

    a. The applicant must commit to monitoring the way its SLDs are used, to ensure that the principles they commit to continue to be met over time.

    b. The applicant must commit that the closed generic gTLD will not be used for fraudulent or illegal activity.

    c. The 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.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	RySG	**[...]** The Draft Framework suggests that a closed generic applicant would commit that the TLD will not be used for fraudulent or illegal activity, which raises questions about how a TLD could represent that in the evaluation process as well as how, and what party, would enforce such a requirement. **[...]** **See full input: Link**		
2	GAC	**[...]** Finally, GAC members underscore that more elaboration may be required regarding how the applicant will comply with certain obligations (**element 15**) so the applicant must ensure that the Closed Generic gTLD is not used to incite hatred to any community or group, nor that it violates the provisions of any established treaty signed by UN members. **[...]**		

		See full input: Link		
		Do not support		

The Evaluation Process

The Evaluation Process:
16. The information provided by the applicant in its application (including its rationale for applying for the closed generic gTLD) will be assessed as part of the evaluation process.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
		Do not support		

The Evaluation Process:
17. 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.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	GAC	**[...]** As Closed Generic gTLDs pose unique competition-related risks, they should be subject to a specific evaluation process, taking into account special criteria with regard to the risks inherent to Closed Generics (**element 17**). Extending the gTLDs' standard evaluation process to Closed Generic gTLDs can be seen as an efficient measure from an organizational perspective but does not meet the GAC's expectations in terms of attention to be dedicated to Closed Generic gTLD applicants. **[...]** See full input: **[Link](#)**		
		Do not support		

The Evaluation Process:

18. The evaluation process and criteria must be clear, predictable, and objective to the greatest extent possible.

   a. In this regard, predictability means that a potential applicant can reasonably assess their likelihood of qualifying for a closed generic gTLD, with the understanding that evaluators will use their professional judgment when evaluating applications.
   b. Evaluators must exercise their professional judgment within predictable parameters and decisions must be well-justified.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	GAC	[...] In addition, GAC members reiterate the need to address preliminary and fundamental questions about the evaluation. It is not sufficient to mention "*professional judgment*", without elaborating more on this notion, like specifying the qualifications and expertise of evaluators. "Professional judgment" must be clarified and defined similarly to the concept of "public Interest" (**element 18**). As such, the GAC suggests modifying **element 19** to read "*if it fully meets the criteria*". [...] **See full input: Link**		
		Do not support		

The Evaluation Process:
19. The evaluation of closed generic gTLD applications must be performed by a panel consisting of suitably-qualified individuals.
a. The evaluation panel must assess each individual closed generic gTLD application to determine if it sufficiently meets the criteria to pass evaluation as a closed generic gTLD.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	RySG	**[...]** Finally, to the extent Sections and 19 and 19.a are proposing that a separate panel be selected to assess each individual closed generic application, this will likely lead to protracted litigation and debate. To avoid this, the Draft Framework should (1) make clear that there will be one panel assessing all closed generic gTLD applications, and (2) remove the phrase "consisting of suitably qualified individuals." The fact that the arbiters must be qualified should be implied, and including this language in the Framework will lead to unnecessary debate and delay at this early stage of the framing process. To remedy this, the Draft Framework could combine and modify Sections 19 and 19.a as follows: 19. The evaluation of **all** closed generic gTLD applications must be performed by **one provider** ~~a panel consisting of suitably-qualified individuals.~~ **that will** ~~19.a. The evaluation panel must assess each individual~~ **all** closed generic gTLD applications to determine if ~~it~~ **they** ~~sufficiently~~ meet~~s~~ **all of** the criteria to pass evaluation as a closed generic gTLD. **[...]** **See full input: Link**		

| 2 | GAC | [...] the GAC suggests modifying **element 19** to read "*if it fully meets the criteria*".

[...] Clarification on whether the panel may seek input from an independent external consultant would be appreciated by the GAC (**element 19**). Furthermore, the "*evaluation panel consisting of suitably-qualified individuals*" should be further characterized in the Draft Framework, and more clear information should be provided concerning the selection of individuals, their required skills, geographical and sectoral representativeness, ensuring stakeholders' regional and linguistic diversity. [...]

See full input: Link | | |
| 3 | BC | [...] We seek clarification of what a suitably-qualified panel looks like. It will differ with every applicant in every business or group. What is envisioned? [...]

See full input: Link | | |
| <td colspan="5" align="center" style="background:red; color:white">**Do not support**</td> |
| | | | | |

The Evaluation Process:

20. The evaluation of whether an application qualifies for a closed generic gTLD should be made prior to resolution of any contention set that the application may be placed in.

a. Applications for closed generic gTLDs will not receive any priority in evaluation or (if applicable) resolving a contention set. For example, an application for a closed generic gTLD that is for the same string as another applicant's (whether the other application is for a closed generic gTLD or not), will be placed in a contention set with the other application.

b. In the event that more than one application for the same string qualifies as an acceptable closed generic gTLD, the standard procedures of string contention resolution apply.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	GAC	**[...]** GAC members underline that it would be essential to have additional information on the scoring system as part of the Draft framework. **[21]** Without a definition of what is in the public interest, it is impossible at this stage to assess the extent to which the application meets the prerequisites (**element 20**). GAC members agree with the notion that no priority should be given to an application of a Closed Generic gTLD in case of a contention (**element 20**). The GAC, however, notes concerns on the use of the standard procedure of string contention resolution in the event that more than one application qualifies as an acceptable Closed Generic gTLD (**element 20.b**) due to the potential moral or societal questions around the interpretation of "public interest". The GAC urges the facilitated dialogue group to further reflect on this topic within the Draft Framework. **[...]**		

		See full input: Link		
		Do not support		

The Evaluation Process:

21. A scoring system may be used to evaluate closed generic gTLD applications.

    a. Such a scoring system should allow for a range of possible scores based on the applicant's answers to application questions.

    b. While the scoring system should enable multiple paths for an applicant to succeed, some evaluation criteria may be weighted more heavily than others.

    c. As guidance for subsequent policy development, the Facilitated Dialogue group has discussed the following as potential indicia for scoring closed generic gTLD application criteria:

        i. The applicant's nexus requirement (#9. on page 5): This criterion may be scored lower if the evidence provided by the applicant only entails the applicant's opinions with no citations, whereas it may be scored higher if it entails a peer-reviewed study demonstrating how their operation of the gTLD will serve a public interest.

        ii. The scope of the impact on the intended group: A generic term that has a broad reach (e.g. ".auto") may be weighted differently than a generic term reaching a more niche group (e.g. ".convertiblesportscar").

        iii. The broadness of the intended beneficiaries (#11. on page 6): The broader the group being benefited, the higher the score may be.

        iv. The representativeness of the applicant (#10.a. on page 5): For applications that follow the "representativeness" track (as opposed to the "non anti-competitive behavior" track) representativeness may be scored with a sole individual being on the lowest end of the scoring spectrum, and a transparent international organization with wide membership being on the highest end of the spectrum.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
Support				
Concerns and Clarification				
1	RySG	[...] employing a scoring system to evaluate closed generic gTLD applications would likely lead to unnecessary arguments that will only delay the implementation of a closed generic application process. Criteria that would		

		allow an applicant to either meet all of the closed generic criteria set out in the framework or not is much less ambiguous. **[...]** **See full input: Link**		
2	ISPCP	**[...]** The ISPCP finally notes that evaluating the genericity of a term in non-English languages (IDN or not) may be challenging for an evaluation process that is likely to rely heavily on evaluation panels. Noting that around 50% of websites use non-English languages, the process must ensure that all languages can be treated equally. **[...]** **See full input: Link**		
3	GAC	**[...]** GAC members underline that it would be essential to have additional information on the scoring system as part of the Draft framework. **[...]** The GAC underscores the need for the inclusion of agreed concrete elements of the scoring system in the context of this framework, in order to consider its feasibility in relation to the overall concerns around Closed Generic gTLDs (i.e. embed the elements underpinning the "public interest" notion once defined) (**element 21.b**) **[...]** **See full input: Link**		
4	BC	**[...]** We note that the group is introducing a scoring system for 10.a which deals with representativeness. Why has the group not introduced the same scoring system for 10.b to cover competitive neutrality, non-discrimination, transparency – each of which should be scored with anti-competitive behavior figuring prominently into the scoring? **[...]** **See full input: Link**		
5	ICANN org	**[...]** c. ICANN org appreciates the group's comprehensive proposal for determining whether an applicant for a closed generic gTLD should be awarded the applied-for string. However, there may be value for the group to explore whether a 'scoring system' is the way forward or whether the policy		

		could focus on the type of restrictions that would be placed on a self-designated 'closed generic'. We raise this point in the context of the perceived lack of objective, transparent and consistent decisions with regard to Community Priority Evaluations during the 2012 round was a major concern among the community, and, in our view, a similar outcome should be avoided for any future process around closed generic gTLDs. **[...]** **See full input: Link**		
Do not support				

The Evaluation Process:

22. The evaluation process must include an objection and Public Comment phase.

   a. An objection specific to closed generic gTLDs is appropriate and should follow the same formula and process as other objections. An Independent Objector should have the standing necessary to submit a formal objection to a closed generic gTLD.

   b. Applications for closed generic gTLDs should be subject to the same Public Comment period as all other gTLD applications. However, the group believes that the comment period for closed generic gTLD applications should be an extended one, considering the unique nature and challenges presented by these gTLDs. The exact format and duration of this extended proceeding is to be determined through the policy process.

      i. By way of guidance and as an example, it may be appropriate to require a 60-day Public Comment period if there are more than a certain number (for example, 10) applications for closed generic gTLDs. Alternatively, again by way of guidance and as another example, it may be appropriate to extend the Public Comment period when there is a request for an extension submitted by a SOAC group or an industry association with an interest in the closed generic gTLD string. This does not replace ICANN's discretion to extend the Public Comment period for all applications, and this extension will apply to the full length of the Public Comment period (extended or otherwise).

      ii. In line with Implementation Guidance 13.6 from the New gTLD Subsequent Procedures Final Report[7], ICANN org should publish all applications for closed generic gTLDs in a dedicated, identifiable, and publicly accessible space, where members of the public can easily identify and find information about each application, including viewing the rules governing these applications and their Public Comments.

      iii. In arriving at this compromise approach to Public Comments, the group acknowledges the unique nature inherent to closed generic gTLDs, as well as the need for sufficient time for meaningful Public Comments, and the public's need to readily find all relevant information about closed generic gTLDs.

      iv. In developing a final recommendation on this extended proceeding, the policy process should also consider the connection to the GAC Early Warning process, to the extent that this is feasible and appropriate.

[7] See Annex 3 to read Implementation Guidance 13.6 and relevant Rationale from the New gTLD Subsequent Procedures Final Report.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	RySG	**[...]** We also note that the SubPro Recommendations already provide ample		

		opportunity for public comments and objections (*see* Topic 30 GAC Early Warnings and Topic 28 Role of Application Comment; *see also* Recommendations 28.1, 28.11 ("Applicants must have a clear, consistent, and fair opportunity to respond to public comments . . . .")). **[...]** **See full input: Link**		
2	GAC	**[...]** Furthermore, GAC members underscore that given the specific nature and risks of Closed Generics, the objection procedure should not be the same as in the standard process (**element 22**), and agree with the extended phase for objection and public comment considering the unique nature of Closed Generic gTLDs. GAC members note that a customized objection process should be defined in the framework. Finally, the GAC notes that a similar approach should be carried out on public comments (**element 22.b**), inter alia that Closed Generic gTLD applications should have a special public comment approach, which goes beyond extending the comment period and could include additional and extraordinary measures such as reaching out to potential concerned communities asking for their input, or advertising the applications through external media and publications to reach a wider audience. **[...]** **See full input: Link**		
		Do not support		

The Evaluation Process:
23. The evaluation process may allow for challenges to closed generic gTLD applications.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
		Do not support		

Contracting & Post-Delegation

Contracting & Post-Delegation:

24. The Base gTLD Registry Agreement should also apply to closed generic gTLDs.

    a. This agreement can be supplemented by an additional Specification documenting the unique terms, conditions, commitments and obligations specific to closed generic gTLDs. In this regard, it may be helpful to look to the development and purpose of Specification 13 as a guide for a Specification that applies to closed generic gTLDs. The New gTLD Registry Code of Conduct (Specification 9) FAQs document may also be helpful.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	GAC	**[...]** The GAC expresses some doubts on the applicability of the Base gTLD Registry Agreement to Closed Generic gTLD applications, in particular pertaining to specific obligations of potential operators which are mentioned in the Draft Framework (**element 24**). The GAC urges the facilitated dialogue group to produce a final draft providing more clarity about these obligations, which should be included in the contract alongside the consequences in case of non-compliance (the suspension and/or cancellation of the Registered Name registration). **[...]** **See full input: Link**		
2	BC	**[...]** 24.a suggests that the agreement 'can' be supplemented by additional Specification to document terms, conditions, commitments and obligations. The BC believes that commitments in a successful application 'must' be supplemented and adhered to throughout the operation of the gTLD. We would also suggest requiring a prominent explanation on any closed		

		generic websites, explaining which entities are included in this space so that users are aware that the gTLD does not allow all players in the relevant market. We firmly believe that this is a necessary transparency measure to avert potential consumer confusion. **[...]** **See full input: Link**		
		Do not support		

Contracting & Post-Delegation:

25. The applicant must begin operating its closed generic gTLD (if approved) in the manner set out in its application and commitments. It is expected that a delegated closed generic gTLD will be put into practice in a timely manner.

    a. Note: The Facilitated Dialogue group agreed with this criterion, contingent on the subsequent GNSO policy process clarifying what constitutes a "timely manner".

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
		Do not support		

Contracting & Post-Delegation:
26. The registry operator of a closed generic gTLD should publish its policies concerning the delegation of SLDs, the rights and responsibilities of its end users, and the handling of complaints. Complaints about intentionally misleading domain names should have a means of redress with the registry operator.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	GAC	**[...]** The GAC underscores that on top of the publication of its policies concerning the delegation of Second Level Domains (SLDs), the registry operator should also be required to report regularly on its "representativeness", when applicable, and the steps taken to consult the community on topics of relevance for the management of Closed Generic gTLDs (**element 26**). **[...]** **See full input: Link**		
		Do not support		

Contracting & Post-Delegation:

27. There must be a periodic post-delegation review of a closed generic gTLD.

    a. The post-delegation review must reflect the commitments that the applicant made in its application or as expressly amended by ICANN in response to the registry operator's request.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
		Do not support		

Contracting & Post-Delegation:
28. ICANN will hold the registry operator accountable for carrying out its commitments, including those related to how the public interest will be served.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
		Support		
		Concerns and Clarification		
1	GAC	**[...]** Finally, the GAC notes that in addition to ICANN's supervision of the applicant's accountability including the way a public interest is served, there should be a guideline about the withdrawal of the delegation if commitments are not met by the applicant/registry (**element 28**). **[...]** See full input: **Link**		
		Do not support		

General Comments and Concerns:
Community feedback pertaining to the Draft Framework as whole, Closed Generic concepts, work methods, policy development processes, etc. rather than specific Draft Framework elements.

#	Contributor	Feedback	Supported / Not Supported by	Action Taken
1	Tucows	Tucows appreciates the work of the participants in the GNSO/GAC Facilitated Dialogue on Closed Generic gTLDs and ICANN Org, and the opportunity to comment on the Draft Framework. Tucows is a strong supporter of the free and open Internet and opposes policy that creates inequity or inaccessibility for Internet users. This perspective leads Tucows to a cautious approach to Closed Generic gTLDs, as Closed Generic gTLDs unfairly restrict people and businesses which could benefit from registering or accessing a domain in the TLD. The Framework attempts admirably to address these concerns—but with limited success. The requirement that a Closed Generic TLD must serve the public interest is valuable but difficult to enforce. **[...]** It may be worth considering the broader use of Community TLDs to represent and provide space for interest groups or communities, rather than Closed Generic TLDs. Tucows supports Policy development relating to Closed Generic gTLDs so that the ICANN Community can set requirements with full multistakeholder participation and representation. We urge members of an eventual PDP WG to carefully consider how to protect unrestricted competition and ensure broad participation in any Closed Generic TLD. **See full input: Link**		
2	RySG	The Registries Stakeholder Group (RySG) welcomes the opportunity to provide feedback on the *Draft Framework for Closed Generic gTLDs* and appreciates the		

time and effort the participants to the Facilitated Dialogue committed to developing the framework.

In addition to concerns noted on the basic definition of a closed generic, we also note that this is not a policy development process. While we expect this work could provide important input into a policy development process, we note that the GNSO PDP must be undertaken if there is to indeed be policy developed on this issue.

We note the comments we are contributing are based upon the understanding that this is a Board directed process and not a formal policy development process. Our feedback is structured as follows: overarching comments, noting areas that are unclear and could present broad scope concerns, and practical implementation issues.

I.   Overarching comments

[...] In addition, while we recognize the work of the Facilitated Dialogue as an important input to this discussion, we also emphasise that if the Draft Framework is to be considered further, it must be subject to the appropriate policy development process.

Further overarching concerns surround how lack of clarity in the Draft Framework could impact scope concerns fundamental to ICANN's mission. **[...]**

Finally, the proposed application and evaluation procedures are cumbersome and lack clarity to allow effective implementation. For example, employing a scoring system to evaluate closed generic gTLD applications would likely lead to unnecessary arguments that will only delay the implementation of a closed generic application process. Criteria that would allow an applicant to either meet all of the closed generic criteria set out in the framework or not is much less ambiguous. **[21]**

II.   Implementation Issues

We note that adhering to the recommendations set out by the SubPro Working Group in this closed generics framework is important so as to avoid protracted relitigation of issues that have already been thoroughly considered, debated, and

		decided.[3] **[...]** **III. Concerns with commercial feasibility** We believe there has been a misunderstanding of the focus of the work on these issues. Commercial issues are out of scope for the work of this group and the commitments suggested and following a formal policy process, could be impractical when it comes to possible future enforcement considering ICANN's scope and mission. For example, **[...]** **IV. Conclusion** We recognize the work that has gone into developing this draft document and have attempted to provide feedback in a constructive and clear manner. We hope the team is able to address those areas where the language of the Draft Framework strays into issues subject policy development processes and those for which the practicality of implementation could be impacted by ICANN's scope and mission. [3] Draft Framework: *1. 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., 2. The criteria for closed generic gTLDs must be clear and published in the final Applicant Guidebook in advance of the application window for a new gTLD round.* **See full input: Link**		
3	ISPCP	The Internet Service Providers & Connectivity Providers Constituency welcomes this opportunity of commenting on the Draft Framework for Closed Generic gTLDs. The ISPCP Constituency commends the participants of the GNSO, the GAC and the ALAC in the Dialogue for producing a balanced approach of the various views expressed in the community on this topic. The Constituency agrees that it should be the basis for future policy work to develop a consensus policy for closed generic gTLDs, and in this respect should constitute the first step towards answering the Board's request and the associated framing paper on the issue. Regarding the overarching principles developed in the framework, the ISPCP supports the notion that a closed generic gTLD should serve both the global		

		public interest and a public interest of a single community. **[4]** The ISPCP also endorses the principle of consistency with the processes of application, evaluation and delegation developed by the SubPro WG. For the next steps and given the complexity of the topic and the variety of potential use cases, the ISPCP would encourage the scoping effort to further enhance the predictability of the application process, be it through a scoring system or other means. Whilst it may be unreasonable to expect that the application process be straightforward and easily automated, it would be equally unacceptable for two similar applications to lead to different results as it may put ICANN's liability and credibility at risk. **[...]** More generally, the Constituency concurs with the group that the notion of enforceability is central to a public interest goal of a closed generic TLD being met over time. Although it was beyond the mandate of the Dialogue (and possibly the mandate of the policy effort to come next), the ISPCP considers this topic to be critical, and a prerequisite for the policy to be developed to be viable, and recommends that a dedicated study be conducted on this topic in parallel to the policy effort rather than deferring the analysis to implementation. The Constituency, however, applauds the systematic and detailed process of evaluation, showcasing a transparent and structured mode of application process. The ISPCP finally notes that evaluating the genericity of a term in non-English languages (IDN or not) may be challenging for an evaluation process that is likely to rely heavily on evaluation panels. Noting that around 50% of websites use non-English languages, the process must ensure that all languages can be treated equally. **[21]** The ISPCP again thanks the members of the Dialogue for their work, supports the framework as it has been developed and is looking forward to the next steps on this topic. **See full input: Link**		
4	GAC	**Introduction** The GAC welcomes the efforts made by the members of the facilitated dialogue on Closed Generic gTLDs from the GAC, GNSO and ALAC. The GAC expresses		

strong appreciation for the amount of thought and work put into the present Draft Framework for Closed Generic gTLDs (Draft Framework) and for the opportunity to provide input on the Draft Framework.

In line with ICANN77 GAC Communiqué, the GAC reiterates concerns "*over the lack of convincing resolutions for preliminary yet fundamental matters in the Draft Framework*" in particular on "*competition issues, the overall assessment of the value of Closed Generic gTLDs for the Internet, their potential negative economic and social impacts, and the evaluation panel*". Some of these challenges, and especially those related to competition issues, have only increased in the last decade, due to the concentration of the digital markets and assets in fewer hands. The GAC wishes to prevent closed generics from accelerating this phenomenon and to avoid privatization or nationalization of important sections of the open digital space without having a clear understanding of the overall benefits and risks involved.

The GAC further reiterates that, as per the ICANN77 GAC Communiqué, "*additional steps, including the possible initiation of a GNSO policy process, should only be undertaken if in the final draft specific solutions are proposed and the above-mentioned issues are adequately addressed*", and that "*no policy option, including the prohibition of Closed Generic gTLDs, should be excluded if a way forward that satisfies GAC concerns is not found. In any event, the framework will be subject to the GAC consensus agreement*".

Overarching Comments

The GAC notes that comments made at the various stages of the process in the Draft Framework do not necessarily signify the GAC's agreement with the principle of Closed Generic gTLDs. The GAC reiterates that it notes "*that the issue of closed generics has generated considerable debate and diverse views. Broadly speaking, while the GAC does not believe closed generics are necessarily inherently anti-competitive, it considers that restricting common generic strings for the exclusive use of a single entity may have unintended consequences, including a negative impact on competition, if appropriate guardrails are not established.*" [1]

In terms of specifics regarding the Draft Framework, the GAC wishes to highlight some areas of concerns for the facilitated dialogue group's consideration, which

will be further discussed in this comment. **[...]** Furthermore, the GAC notes that evaluating whether a proposed Closed Generic gTLD would meet a public interest goal, as proposed in the Draft Framework, may likely create significant costs for the ICANN community with no corresponding benefit, as in most cases, a Closed Generic gTLD would serve only the private interests of its operator without benefits to the public, unless a clear case is made and confirmed during the application and evaluation phases.

Concrete and well-explained use cases are the second area for the facilitated dialogue group to further explore, to show the value of delegating Closed Generic gTLDs beyond any reasonable doubt, illustrating their benefits for individuals and communities. GAC members note that while the Draft Framework includes a few types of organizations that potentially might be interested in applying for Closed Generic gTLDs (such as the International Red Cross and other similar not-for-profit international organizations), it may also benefit from the addition of examples involving commercial and for-profit entities.

The GAC appreciates the opportunity to provide input to this Draft Framework and thanks the facilitated dialogue group for their consideration while reviewing the input received before continuing with the next steps on this topic.

GAC Input on Specific Elements of the Draft Framework

1. **GAC Input on the Application and Application Process**

The GAC believes that important clarifications would be needed for the application/application process part of the Draft Framework to respond to GAC's concerns as expressed in the <u>ICANN76</u> and <u>ICANN77</u> Communiqués and statements mentioned above. **[...]**

2. **GAC Input on the Evaluation Process**

[...] GAC members flag that in order to fully appreciate the adequateness of the proposed Draft Framework, the evaluation criteria for Closed Generic gTLD applications should, to the extent possible and as appropriate to be convincing in this phase, be contained in this framework and should address the policy concerns of the GAC as expressed in the ICANN76 and ICANN77 Communiqués as well as in earlier statements (**element 18**). **[...]**

		3. **Input on Post-Contracting/Post-Delegation** **[...]** The GAC notes that certain points of the post contracting/post delegation phase require further attention. **[...]** **Conclusion** **[...]** The GAC wishes to express its appreciation to members of the GAC, GNSO and ALAC facilitated dialogue on Closed Generic gTLDs for this preliminary framework, and looks forward to reviewing the final framework in due time. GAC members broadly agree that certain areas and provisions in the Draft Framework should be further elaborated, including defining use cases, risks, and criteria for evaluation of applications. The GAC also understands that GAC consensus is required to achieve GAC, GNSO and ALAC agreement in finalizing this Draft Framework and to make it workable to set the basis for a potential Policy Development Process, which would further define the necessary policy elements applicable to closed gTLDs on the basis of a convincing starting point that addresses GAC's fundamental concerns. The GAC remains available should the facilitated dialogue group wish to ask clarifying questions on any of the input provided above. [1] *GAC Comment on Subsequent Rounds for New gTLDs Draft Final Report Public Comment Proceeding:* https://gac.icann.org/file-asset/GAC%20Subpro%20Final%20Report%20Collective%20Comment%20-%20FINAL.pdf **See full input: Link**		
5	BC	This document provides input from the ICANN Business Constituency (BC), from the perspective of business users and registrants, as defined in our Charter: 1. promotes end-user confidence because it is a safe place to conduct business 2. is competitive in the supply of registry and registrar and related services 3. is technically stable, secure and reliable. The BC appreciates the commitment of GAC, GNSO and ALAC participants to		

address the ICANN Board's interest in establishing a Framework on Closed Generic gTLDs for the next round of applications. The BC was indirectly represented in this process through the CSG and understands the depth of discussions to develop the Draft Framework.

The BC understands that the Facilitated Dialogue participants are sharing this Draft Framework with the broader community to invite input on elements for which the community seeks additional clarification.

Early in this process, the BC shared a firm and specific position we developed on Closed Generics during the 2012 gTLD expansion[1] :

The BC would be concerned about consumer deception and competitor exclusion if a single competitor in an industry manages a closed TLD where the TLD string is closely identified with the industry

For example, say a travel company or a hotel chain runs **.HOTELS** as a closed TLD -- not allowing competitors to register second level names, while also controlling content on domains such as search.hotels, eco.hotels, family.hotels, best.hotels, cheap.hotels, luxury.hotels, etc. It's easy to see how the TLD owner could bias content and search results on those consumer information sites, without consumers being fully aware.

While the BC appreciates that the concern above has been partially adopted by Facilitated Dialogue participants, we believe there is need for clarification, as explained in our comments below.
[...]

Concluding Comment and Question
This draft framework presents a very complicated process with multiple evaluation points that are highly subjective, such as "public interest" tests. We believe the proposed process would likely prevent any closed generics in subsequent rounds.

Question is, does the Facilitated DIalogue group *intend* for their process to prevent *any* closed generics?

If not, the Framework should be simplified to the point that a well-intentioned applicant has some hope of running the gauntlet of evaluations and objections.

		This comment was drafted by Tim Smith, Steve DelBianco, and Marie Pattullo. It was approved in accord with our Charter. [1] Mar-2013 BC comment on Closed Generics, at https://www.icannbc.org/assets/docs/positions-statements/bc-comment-on-closed-generic-tlds.pdf **See full input: Link**		
6	ALAC	The ALAC appreciates the opportunity to comment on the Facilitated Dialogue on Closed Generic gTLDs Draft Framework. The ALAC further appreciates the extensive discussions, held as part of the Facilitated Dialogue as well as the experiment in "unpressured" consensus building. Unfortunately, it is the view of the ALAC that the resulting framework lacks sufficient intent and clarity to be operationally useful. While it is possible that a follow on PDP would add sufficient clarity, it is the view of the ALAC that more direction is needed from the framework to facilitate a useful discussion around implementation. In the absence of such changes, the ALAC believes that a resultant policy may well allow and encourage just the type of closed generic applications that caused the concern during the 2012 round. **System Bias** Every system, or "framework," has a built-in bias or default, to resolve "close calls" within the system. The ALAC believes that the bias, with regards to so-called "Closed Generics" should be against the monopolization of common terms by a single entity, particularly a commercial or commercially-led entity. **[8]** The requirement that the applicant justify their proposal with a public interest is not an invitation to creativity but rather the expression that it should be the *exception* when such a string is granted. **[4]** The ALAC believes that the risks, associated with such a gTLD, will outweigh the benefits in most cases. **[13]** While the framework rightly points to language in the Subsequent Procedures Working Group Final Report, supporting the notion of predictability for applicants **[2],** it is the view of the ALAC that, all things being equal, the award of a generic string, for the exclusive use of one entity, should be denied. Such a system bias, if agreed to by the community, should be made explicit *and* predictable.		

Burdensome Complexity

Ironically, the implicit bias of the proposed framework is towards large entities, with sizable legal budgets, ready to traverse the gauntlet of complex procedures, over applicants whose intention might actually be the advancement of the public interest. Any system, to be workable, needs to be sufficiently simple to be available to applicants of all types but in particular to communities and not for profit entities with long standing public interest missions. In its current form, the number of tests suggests that only the wealthy will attempt, much less succeed, in applying for a closed generic, which is quite the opposite of the intention of a public interest requirement. The proposed gauntlet provides, at best, only the *appearance* of public interest preservation.

Insufficient Clarity

While the notion of scenarios is discussed, the proposed framework would benefit from their more explicit use to highlight the intentions of the drafters. Instead, the framework often relies on vague, abstract or possibly overly legal definitions that simply postpone the discussion about validity. In particular, the distinction between representative organizations and those with no anti-competitive intent should be made clearer. **[10]** One tool to express intent would be the use of specific hypotheticals. For example, a commercial entity that produces "safety" products should probably *not* be allowed to monopolize the generic term ".safety," for its own use. While a public interest case could be made for a series of websites, focused on, for example, fire.safety, water.safety and traffic.safety, if such a series was ultimately a kind of advertising platform, for a single vendor, the ALAC would consider such a public interest benefit outweighed by the potential for unfair competition. This argument equally applies to other 2012 examples such as .book run by a specific large book seller, .carinsurance run by a specific car insurance company or .cruise run by a specific cruise ship line. On the other hand, a .disaster run by a consortium of disaster-relief organizations might well be considered in the public interest. A series of explicit hypotheticals would add more clarity to the framework, facilitate implementation *and* predictability of eventual applications.

Instead, in the absence of clear hypotheticals, the proposed framework would seem to imply a lack of clarity in the work of the facilitated dialog itself. Ultimately, it is likely that criticisms of the proposed framework are merely reflections of a convoluted consensus by the small team, rather than actual errors in the document. In the absence of clear intent, by the small team, a PDP would be

		challenged to propose a workable system that reflected those intentions. **Process Failings** The Facilitated Dialogue process was clearly challenged by the deadline imposed by the GNSO and Board. ICANN's Consensus Playbook encourages strategic deadlines but cautions using a deadline to force agreement when the group is not yet ready. Moreover, the Consensus Playbook strongly supports striving for full consensus, but makes it very clear that it must not be required. The process that the Facilitated Dialogue used evidently required full consensus. That, and the timeline, resulted in a long list of issues that were never fully discussed. This included issues which were summarily dropped despite strong support due to the proposal not being acceptable to some group members. **Conclusion** While the ALAC appreciates the intentions of the board and the efforts of the small team, a framework comprised of complex, yet vague evaluation criteria represents a kind of Pyrrhic victory, that has the potential to inspire results that are the opposite of the intentions of the majority of the community. The ALAC believes that the proposed framework is both too complex to be useful to a "typical" public interest organization and too vague to disallow the very kinds of anticompetitive outcomes that drove opposition to closed generics in the previous round. In short, the small team should clarify its intentions, express a conscious bias, and clarify those intentions through the inclusion of explicit hypotheticals. Only then will it be possible to construct an exception-based framework which is open to the entire global interest community. **See full input: Link**		
7	ICANN org	We would like to thank you for the opportunity to provide feedback on the draft framework and congratulate the group for reaching a broad understanding on how subsequent policy work on this complex topic can be framed. ICANN org has a few comments that we would like to share as the group proceeds to work towards a Final Framework to underpin the policy work that we understand the GNSO Council is considering to initiate. Please note that our feedback does not imply that ICANN org has determined that the framework is unimplementable. ICANN org looks forward to working with members of the		

expected EPDP team, in our customary roles as appropriate in a community policy development process to facilitate the development of clear and implementable policy recommendations.

Our specific observations on certain aspects of the framework are as follows:
[...]

[...] As a general matter and as the dialogue group begins its deliberations on a Final Framework, ICANN org would like to encourage the group to bear in mind the need to balance a thorough process for applying for, evaluating and operating a closed generic gTLD with the risk that an overly complex and costly process could result in only a very small number of eligible applicants deciding to apply for as well as fulfill all requisite criteria to operate a closed generic gTLD.

We hope this brief input is helpful and invite you to reach out to ICANN org's GDS or other teams if we can be of any assistance.

We look forward to reading the group's Final Framework and thank you again for the effort the group has made to reach this milestone.

Sincerely,
Theresa Swinehart
Senior Vice President of Global Domains and Strategy

See full input: Link