Participant Evaluation of the Closed Generics Facilitated Dialogue Process
15 November 2023

For their final meeting, the participants of the Facilitated Dialogue on Closed Generics discussed various elements of the Dialogue process and offered their feedback. This feedback is summarized below. Please note that these inputs represent the individual opinions of the Facilitated Dialogue participants, and do not represent the views of their appointing SO/ACs.

1. <u>**Board Initiative**</u>

   ● Several participants noted that the initiative from the Board calling for the facilitated dialogue was welcomed and was a good approach to active leadership without being top-down. It was a useful innovation by the Board, and there will likely be other issues that benefit from a small group of participants (working under the Chatham House rule) from across the Community focusing on a specific issue.

   ● One participant added that in the event of this effort being replicated, it is important to distinguish between cross SO/AC cooperation within gTLD policy development processes, and the use of an innovative process to try and come up with a middle ground solution that was not achieved in a PDP. Assuming that the original positions of the community remain unchanged, if a similar small group is tasked with finding middle ground, it must be accepted that its solution cannot and will not be based on overall community consensus. Since the broader community is not deeply involved in developing the compromise, those entrenched in their positions will not support the middle ground solution, or else they would have in previous attempts. The only difference and benefit of the effort is that a middle position is made available, but it may not be possible to base any decision to move forward with this middle position on it having broad community acceptance.

   ● Another participant noted that it would have been helpful at the outset of the facilitated dialogue to have a clearer understanding of the overall decision making structure, including ownership of the project, the responsibilities of participating groups, and the implications of their work products. At times it was unclear to those in the community what the "facilitated dialogue" and its deliverables meant.

2. <u>**Group Size and Representation**</u>

   ● The participants generally agreed that the idea of having a small group, putting their heads together to tackle a complicated issue, is a good approach to solve complex long-standing issues. However, decisions must be made early on whether the group is intended to be representative across SO/AC/SG/Cs, or intended to be a group of "expert" independent thinkers, as this will inevitably impact the work.

   ● Some participants noted that it should be clearer that participants are taking part as "experts" and not representatives of their community group. However, participants also noted the difficulty with balancing competing interests, as participating as individuals

nevertheless sometimes requires them to represent outside opinions. One participant highlighted the importance of achieving buy-in and support from other positions. Those involved in the facilitated dialogue notably had more buy-in from one another than from those outside the dialogue.

- Another participant suggested that, when defining the composition of such a facilitated group, there is a need to balance the volunteer-principle with effectively integrating those with diametrically opposing opinions. Otherwise, as had happened this time, fundamental opposition and strong concerns may only surface very late in the process. Hence, incentives have to be rethought to identify such pointed views more effectively from the start and include them in the core process. One participant agreed it is good to know of such opinions up front.

- To the suggestion of integrating those with diametrically opposing opinions, one participant expressed that this would be difficult depending on the individuals. They acknowledged that identifying needs is important and maintaining a needs-based approach throughout the work is useful, as is focussing on understanding and problem solving, rather than simply repeating the positions of the respective groups.

- Another participant voiced their opinion that a tighter group with very opposing opinions would yield the same result. They noted that the facilitated dialogue group did not fail in finding a middle ground, only that middle ground did not find a broad consensus. Including the same inputs in the process will not change the final result.

- One participant suggested that outcomes may vary when using a different procedural means, such as having a facilitator, devoting a working group to one issue, using a different incentive structure than a typical PDP, etcetera.

- The participant added that due to the volunteer principle and lack of full openness of this process, there were fewer people integrated into the process than were needed (not in terms of quantity but positions represented). As a non-representative group, this group had more middle ground solutions, which illustrates representation bias. Due to the lack of openness, those with other opinions did not have the opportunity to contribute to the exposition of matters they had views on. This is why it is important to pick people from different positions and integrate them into the process. There is no guarantee of success but at least everyone is represented at the table. The dynamics of the process can change the end result.

3. **Open vs Closed**

- The participants generally found value in the freedom to discuss without attribution, but agreed there needs to be better, more frequent communication out of the group to the SO/AC/SG/Cs.

- One participant expressed mixed feelings regarding the openness vs closing of such a small group. They noted that keeping the group closed provided a venue for more open and candid discussions, though it was perceived by the community as a lack of transparency. Being open to community observation from the very beginning could have addressed the lack of transparency concern, but may have not been as inviting an

environment for holding an open and candid exchange among the group members. However, it was noted that open groups have certainly worked well before.

- Some participants suggested that there has to be balance, as a completely open arrangement would reduce the effectiveness of the group to work toward a solution under Chatham House rules, a format that several participants strongly supported. More regular reporting from the group was probably needed; perhaps with summaries of each meeting clearly published and shared. Multiple participants acknowledged that such transparency could be a means to overcome the issues associated with holding closed discussions, while maintaining the freer sharing of ideas under Chatham House rules. Ultimately, the end product would need to have support from the wider community, which leans toward openness.

- Another participant opined that their discussions must be under the Chatham House rule, otherwise they would not have been as effective. Their face-to-face deliberations and roundtable comments in particular would not have been as productive had they been completely open. This is the benefit of the Chatham House rule and operating in a closed environment, otherwise it would just be the same as a normal policy development process.

- One participant noted that there is a tradition of robust exchanges even when participants are observed. They opined that next time it should be an open setting from the start.

- Another participant disagreed, noting that at the beginning of the facilitated dialogue, the group discussed whether it should be open or closed, and decided it should be closed. They recalled that some participants felt they could not contribute fully if every word was attributed to their company or affiliated body. They also noted that the face-to-face sessions in Washington DC were a time of key discussion and exploration, and if making such work fully open took away from those processes, then they would suggest keeping it closed, at least in the early parts of a future group's work. However, it might have been better if the dialogue had been closed for a shorter period of time before opening it.

4. **Communication with SO/AC (community at large)**

- Multiple participants noted that more liaising with constituencies was needed and may have helped to address the community perception regarding the group's lack of transparency. Perhaps more frequent and timely sharing of the group discussion outcomes would also help to avoid any last-minute surprises and heighten the probability of securing community buy-in of the group's final outcome.

- A participant added that reporting back to community groups is important, but it should be a single message that comes out from the small group tasked with the work.

5. **The Neutral Facilitator**

- A participant acknowledged that the choice of the facilitator is very important in the success of such initiatives, adding that the facilitator of the Closed Generics Dialogue did a superb job facilitating the discussions neutrally, asking the right questions, managing the time efficiently, and ensuring sustained progress of the group.

- Another participant agreed, stating that this was an inspired approach from the Board which greatly benefited the Closed Generics Dialogue, and the neutral facilitator was excellent.

- One participant offered a comment regarding the role of the facilitator and the decisions made along the way, noting that there were times where the facilitator closed discussion because the group was running out of time, or decided that some issues were too intractable at the moment and so put them aside. Rather than commenting whether those were good or bad decisions, they acknowledged that the position of facilitator necessitates making certain decisions that inevitably affect the outcome.

- A participant then asked the neutral facilitator to share their experience with the facilitated dialogue.
    - The neutral facilitator acknowledged that this was a very difficult task from the start, as the participants have an established way of doing community work, where she was appointed to try something different, and to gain the trust of participants to do so. It was a major reason why the group spent so much time on the participant commitments. There were many divergent views on this issue, and her goal was always to try to facilitate trust, both between the participants and with the facilitator.
    - She reflected that while she was neutral on this subject, to some participants it may not have always feel that way, as an ICANN org employee can create a different perception from that of a third party contractor. She emphasized that neutrality was always her biggest focus in the facilitator role.
    - The group's early discussions illustrated the challenge of trying to evolve the conversations on this difficult topic. However, seeing the group's dynamics and good faith efforts during their face-to-face meeting clearly demonstrated that everyone was trying hard to make the dialogue work.
    - The compressed time frame between ICANN76 and ICANN77 created another challenge, as the group still had many "red line" issues they had to get through before their deadline. It was likely that they could have approached this challenge differently with a different deadline. The facilitator expressed great pride in the participants' work and their willingness to engage in a different way than they are used to.

6. **Policy Staff**

- Participants generally agreed that the policy staff did an excellent job in capturing the group's discussions and formulating them into concrete outcomes or points for further discussion.

- One participant added that this was very important, as progress was made possible by the excellent work taken forward.

7. **Multistakeholder Effort**

- The participants recognized that the facilitated dialogue was truly a multistakeholder effort and a genuine success in terms of collegial spirit, good work and cooperation, although, given the context, the group could not achieve an agreed framework.

- One participant affirmed their strong support for the multistakeholder model of policy making, and this facilitated dialogue constituted a very innovative approach to trying to solve a complex problem. It was not solved in the last round of new gTLDs, nor through years of PDP and SubPro, but it was a great effort that the group made here, trying something different.

- Another participant noted that this could be considered a case study on how the multistakeholder model works. Being a small group, not everyone is going to be involved, and not everyone is going to see everything in how the decisions are made, but ultimately it is about recognizing what works and what does not, and getting buy-in and support for compromise positions.

8. **Background Information**

- A participant voiced the need for good, clear, thorough, comprehensive background information. They felt the background materials and starting paper did not have the depth and breadth needed for this difficult job. The materials seemed to gloss over the deep nature of the divide on this issue in the last round, perhaps because of insufficient time to prepare. Had the group gotten a clear and detailed picture of what happened in 2012-2015, they might have had a faster start to their work, and a fuller sense of the concerns on all sides of this issue.

- Another participant disagreed, noting that they were frustrated about the amount of time focused on the history of this issue. If this topic is picked up again, they hope that no one in this group is involved, in order to focus on moving forward. Not all of what happened in the past may still be relevant now. The participant was frustrated that there were some who were entrenched in past positions. There is a role for history and context, but if a future group keeps rehashing the same positions, it will have the same results.

- Considering both points, one participant noted their agreement that if someone is brought in who does not know the history, then they will do something different. However, there is a danger that if one does not understand the trigger points from before, they may repeat them. Certain ideas were rejected last time, so it is important to consider them. It is a balance.

- Another participant added that the group perhaps could have done better in terms of using "empirical evidence", for example, reviewing those few applications from the previous round which were requalified from closed to open, in order to get a better sense

of the actual problem space and think in more practical terms, if possible.

9. **Timing and Face-to-Face Meetings**

- Participants generally acknowledged that sufficient time must be allowed for the process to work. One participant suggested that if the group had one more year to work on this process, perhaps it could come to a solution.
- Another participant emphasized that consideration must be given to adequate face-to-face discussion as it can be far more effective than teleconferences at resolving complex issues, and e-mail discussions rarely resolve differences. Collectively, the group largely found the face-to-face meeting in Washington DC to be invaluable.
- Another participant agreed, adding that the impact of a face-to-face meeting is not just to kickoff deliberation but to finish it. Meeting face-to-face makes a huge difference. Going forward, for results, the process cannot be done in a half-hearted way. The overall time frame and face-to-face interaction can make or break this process.