GAC - GNSO Facilitated Dialogue on Closed Generic gTLDs
Summary Report
01 March 2023

Objective

The objective of the facilitated dialogue on closed generic gTLDs is to formulate a workable framework to identify and handle closed generic applications for the next round(s) of new gTLDs. Should the participants from the GAC, GNSO, and ALAC reach agreement on a framework that meets with approval from the GAC and GNSO Council, the expectation is for the framework to be further developed through the appropriate GNSO policy process. The participants in this facilitated dialogue group are not developing policy.

This report summarizes several elements of a potential framework on closed generic gTLDs which have generally reached a shared understanding among the GAC-GNSO facilitated dialogue group. Background on this dialogue as well as previous summaries of the group's discussions may be found [here](.).

Work Method

The facilitated dialogue group is composed of six members from the GNSO, six members from the GAC, and one member with one alternate from the ALAC. A neutral facilitator from ICANN org was proposed by the Board and approved by the GNSO and GAC leadership to facilitate the discussions. At the group's request, the Board appointed two liaisons to observe the work.

In pursuit of agreement on what a framework for closed generic gTLDs should include, dialogue participants have so far held eleven virtual meetings, worked asynchronously on various brainstorming exercises, and engaged in a two-day hybrid workshop in Washington DC, USA. Throughout their hybrid and virtual meetings, participants have collaborated on key topics and presented diverse ideas for potential criteria and processes applicable to closed generic gTLDs.

To help frame the ways in which a closed generic gTLD could be different from other gTLDs, discussions have generally followed the hypothetical life cycle of a closed generic gTLD, from its application phase, through its evaluation, ultimately to its post-delegation requirements. Each phase of this life cycle presents different questions and challenges with regard to how closed generic gTLDs should be allowed. However, the group continues to work toward producing a framework process that is clear, predictable, usable, and implementable.

At this time, the group has found common ground on several elements of a future framework, which are summarized below in the relevant phases of a gTLD life cycle. Within the facilitated dialogue, these framework elements are often referred to as "shared understandings", construed as areas where the group has converged on a similar need or approach. When reviewing the below framework elements, it is important to take note of the following:

1. These elements have been summarized and do not reflect the full detail of discussions or breadth of the group's shared understandings to date.
2. These elements are preliminary and subject to change depending on the group's evolving discussions.
3. As part of and in addition to these elements, the group may provide more details in its final framework and/or decide that some details are more appropriately refined in a subsequent GNSO policy process.

The facilitated dialogue on closed generic gTLDs is still ongoing. The group is currently operating under Chatham House Rules, however, once it reaches agreement on the initial framework, this framework will be shared with the community for feedback before it is finalized.

Application Phase

After the facilitated dialogue concludes, but before the next application round of the New gTLD Program initiates, the application criteria and process for closed generic gTLDs should be fully developed, implemented, and transparent. Prospective applicants will therefore have the opportunity to familiarize themselves with the necessary criteria for delegation ahead of the application round. The facilitated dialogue group believes it is the responsibility of the applicant to provide evidence of their eligibility for a closed generic gTLD.

In its 2013 Beijing Communique, the GAC advised that "*for strings representing generic terms, exclusive registry access should serve a public interest goal*." The group has discussed this "public interest goal" concept at length, including how to incorporate it objectively into a framework on closed generic gTLDs. When thinking about what might constitute public interest goals, the group found ICANN's Global Public Interest (GPI) Framework and Bylaws both to be useful tools, but also somewhat limiting for definitional purposes. Rather, the group believes it is possible for a closed generic gTLD to serve a public interest goal that goes beyond ICANN's mission, and that there is value in public interest goals that serve a very broad intended public as well as a targeted intended public.

In consideration of the GAC's Beijing advice, the dialogue group agrees that applicants of a closed generic gTLD will need to answer additional questions and provide additional information compared to a standard gTLD application. One of the key questions that an

applicant must answer will ask them to demonstrate that their closed generic gTLD will serve a public interest goal. The applicant will also be expected to identify who will receive the intended benefit of their closed generic gTLD. The group believes that a closed generic gTLD should benefit parties beyond the applicant itself.

In the application, the applicant would also need to demonstrate and commit to the steps it will take to ensure the closed generic gTLD will serve, and continue to serve, the relevant public interest goal(s) it identified. The dialogue group has acknowledged that for the purposes of evaluation and enforcement, the commitments that the applicant makes must be objective, measurable, and enforceable.

The group continues to discuss additional application elements, as well as their refinement and/or alignment among the facilitated dialogue participants. Once the group reaches a shared understanding of these elements, they may be included in the future framework.

Evaluation Phase

Dialogue participants have generally agreed that, to the greatest extent possible, evaluations of closed generic gTLD applications should follow the standard gTLD application process, including the standard Public Comment and dispute resolution processes. Participants also generally agree that the evaluation process should include the opportunity for objections. The group does not anticipate that applications for closed generic gTLDs will receive special prioritization in application queuing or contention resolution.

In addition to the standard gTLD process, the group expects there will be additional evaluation criteria and process components for closed generic gTLDs. Evaluation criteria will be used to assess the responses and any evidence submitted by the applicant, such as its commitments to continually serve the public interest goal(s) it identified. As with the application, the evaluation criteria must be objective, measurable, and enforceable, and the evaluation process itself must be predictable.

To allow for a variety of public interest goals and applicants, the group acknowledges there is value in an evaluation process that has both objective criteria and built-in flexibility. Participants have discussed the use of a scoring system with a range of possible scores for relevant criteria as one potential method to evaluate closed generic gTLD applications.

The group believes that a panel of individual evaluators may be best suited to make the decision about a closed generic gTLD application. Additional evaluation elements, such as considerations of threats and risks associated with closed generics gTLDs, are continuing topics of discussion.

Post-Delegation Phase

Once a closed generic gTLD application is evaluated and found to have met all necessary criteria and processes for approval, the gTLD may proceed to delegation. However, the facilitated dialogue group agrees there should be additional requirements for closed generic gTLDs after they are delegated. For example, the registry operator must begin operating its closed generic gTLD in the intended manner within a set time frame.

Considering the public interest requirements of closed generic gTLDs, the group believes there must be an additional review process following delegation. This review process may include requiring periodic self-certifications from registry operators to ensure they are meeting their commitments.

The review should mirror the objective and measurable commitments made by the applicant in its application. For example, the review could focus on how the applicant set out to achieve its goal of serving a public interest and evaluate the mechanisms that the applicant set forth to serve that public interest.

The applicant will be held accountable for its commitments, including through enforcement of its contractual commitments by ICANN Compliance. While enforceability remains a concern for the group, all assume that ICANN will be able to enforce the relevant obligations.

Next Steps

The facilitated dialogue group intends to hold a closed session at ICANN76 to further discuss and refine elements of a preliminary framework on closed generic gTLDs. After ICANN76, the group will likely continue its periodic virtual meetings until it finds agreement on a framework.

The group has not yet decided when the work of the facilitated dialogue will conclude, however some participants have expressed the desire to produce a formal framework for community input before ICANN77.