ICANN | GAC

Governmental Advisory Committee

22 April 2022

Maarten Botterman
Chair, ICANN Board of Directors

Subject: GAC Response to ICANN Org Framing Paper on the Board-Facilitated Process for a GAC/GNSO Council Dialogue on Closed Generics

Dear Maarten,

Following your letter (6 March 2022) relative to the proposed ICANN Board facilitated GAC-GNSO consultation process on closed generics, the GAC confirms reception of the accompanying framing paper. As noted on the GAC response (10 March 2022), submitted prior to the reception of said framing paper, the GAC welcomes the ICANN Board's invitation for the GAC and GNSO to attempt to explore a mutually agreeable way forward to identify a framework to handle closed generic applications for the next round of new gTLDs.

Having reviewed the framing paper on the Board-facilitated process for a GAC/GNSO Council dialogue on closed generics, the GAC wishes to raise a couple of points for your consideration and kind attention.
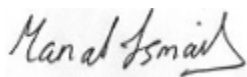
- The GAC generally agrees with the proposed parameters for dialogue, noting that discussion should focus on a compromise to allow closed generics only if they serve a public interest goal and that the two "edge outcomes" (i.e. allowing closed generics without restrictions/limitations, and prohibiting closed generics under any circumstance) are unlikely to achieve consensus, and should therefore be considered out of scope for this dialogue.

- The GAC agrees with the proposed process and actions following the conclusion of this dialogue, including the importance of community input being sought once the GNSO/GAC dialogue concludes. The GAC understands that following community consultation if a framework is achieved, it would then move through an appropriate policy development process.

- The GAC acknowledges the timing of the GAC/GNSO consultation process, due to commence prior to ICANN74 with updates to be provided at ICANN74.

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- The GAC would welcome a timeline from ICANN Org/ICANN Board for the expected delivery of the Problem Statement and Briefing Paper mentioned in the Framing Paper, to be developed by ICANN Org with the facilitator. As noted in the GAC response (10 March 2022), the GAC was looking forward to the Framing Paper including the definition of the problem and scope of the dialogue.

- The GAC encourages ICANN org to refer to the 2017 IGO and Red Cross Identifiers "Process Outline" for the upcoming dialogue since the process, methodology and comments in the outline may prove useful as a source of agreed language regarding process elements for a facilitated dialogue on closed generics.

- The "appropriate number" of participants for the dialogue - which are to be included in the Problem Statement and Briefing Paper - would also inform the GAC decision on who should take part in this effort.

- The GAC notes that the facilitator should be a well-respected member of the ICANN community, with a track-record of respectfully and tactfully building consensus, and independent from commercial interests. Ideally, the facilitator should have a good understanding of the closed generics issue and its history, but not having been directly involved in SubPro PDP WG discussions to bring a fresh perspective to the process. Finally, the facilitator should be willing and able to proactively help different parties find a mutually acceptable solution.

- The GAC encourages the facilitator and ICANN Org to consider a balanced number of participants from the GAC and GNSO Council for the dialogue to be effective.

- Finally, the GAC asks the Board how the Board envisions a potential Expedited PDP impacting - or not - the rollout of the next round of new gTLDs (as noted in item 8 of the Procedural Overview section).

Best regards,

Manal Ismail
Chair, Governmental Advisory Committee (GAC)
ICANN