

GAC Advice – Washington D.C. Communiqué: Board Action (10 September 2023)

GAC Advice Item	Advice Text	Board Understanding Following Board-GAC Call	Board Response
<p>§1.a.i Predictability in New gTLD Applications</p>	<p>a. The GAC advises the Board to:</p> <p>i. <i>To take steps to ensure equitable participation in the proposed Standing Predictability Implementation Review Team (SPIRT) by all interested ICANN communities, on an equal footing.</i></p> <p><u>RATIONALE:</u></p> <p>The GAC appreciates the efforts to create a Predictability Framework. GAC Members note that further clarification on the implementation of the SPIRT is necessary, as well as on the role the GAC will play in it, especially in light of Implementation Guidance 2.3 of the SubPro PDP Working Group Final Report suggesting direct dialogue between the SPIRT, ICANN org and the ICANN Board on GAC Consensus Advice, in which the GAC expects to be included as well, as discussed with the Board and GNSO Council during ICANN77. Furthermore, GAC members emphasize the importance of the opportunity for equitable participation on an equal footing on the SPIRT by all interested ICANN communities.</p>	<p>The Board understands that the GAC is advising the Board to take steps to ensure equitable participation by all interested ICANN communities in the proposed Standing Predictability Implementation Review Team (SPIRT). The Board also understands, based on input from the GAC on the Board’s clarifying questions, that the GAC would like for the Board to convey the GAC’s position for equitable representation within the SPIRT to the GNSO Council. The Board understands that the predictability in the New gTLD application process is important to the GAC and the ICANN community.</p>	<p>The Board has approved the recommendations on Topic 2, Predictability, and the implementation of the recommended framework is in progress by the org, working with the Implementation Review Team (IRT).</p> <p>The SPIRT, which is part of the recommended Predictability Framework, is a group chartered by the GNSO.</p> <p>The Board accepts this advice and will convey to the GNSO Council the GAC’s advice and rationale concerning representation in formation of the SPIRT.</p>
<p>§2.a.i Registry Voluntary Commitments (RVCs) / Public Interest Commitments (PICs) in New gTLDs</p>	<p>a. The GAC advises the Board to:</p> <p>i. <i>To ensure that any future Registry Voluntary Commitments (RVCs) and Public Interest Commitments (PICs) are enforceable through clear contractual obligations, and that consequences for the failure to meet those obligations should be specified in the relevant agreements with Contracted Parties.</i></p> <p><u>RATIONALE:</u></p> <p>The GAC recalls persistent GAC concerns regarding both the weak implementation of PICs applicable to gTLDs in highly-regulated sectors and the lack of clarity and effectiveness of the mechanism to resolve disputes (the Public Interest Commitments Dispute Resolution Process or PICDRP) and recommends that these issues are remedied in any subsequent rounds.</p>	<p>The Board understands that the GAC is advising the Board to ensure that any future Registry Voluntary Commitments (RVCs) and Public Interest Commitments (PICs) are enforceable through clear contractual obligations and enforceable under the ICANN Bylaws. The Board understands, based on input from the GAC on the Board’s clarifying questions, that the GAC expressed concerns regarding the implementation and effectiveness of PICs in the 2012 round of New gTLDs and may provide examples of concerns at a later time. The Board also understands, based on its clarifying questions discussion with the GAC, that, should there be a community discussion regarding potential Bylaw changes to permit enforceable and allowable RVCs/PICs, that the GAC would like to be involved.</p>	<p>The Board accepts this advice and will consider the GAC’s advice as it further deliberates on pending recommendations related to PICs/RVCs.</p>

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<p>§3.a.i Applicant Support in New gTLD Applications</p>	<p>a. The GAC advises the Board to:</p> <p style="padding-left: 40px;">i. To specify ICANN’s plans related to steps to expand financial support and engage with actors in underrepresented or underserved regions by ICANN78 in order to inform GAC deliberations on these matters.</p> <p><u>RATIONALE:</u></p> <p>The GAC reaffirms the importance of increasing the number and geographical distribution of applications from underrepresented or underserved regions in future rounds of New gTLDs through the Applicant Support Program. The GAC reiterates its “support for proposals to substantially reduce or eliminate the application fees and ongoing ICANN registry fees to expand financial support” , in order to sufficiently cover all such applications.</p> <p>Without a substantial reduction in, or financial support for, the application and ongoing fees, many potential applicants in underrepresented or underserved regions would be unable to apply due to the status of their economies, where available capital for ICT/digital initiatives has been historically limited.</p> <p>The GAC highlights that non-financial support is also an important element of an applicant support programme, for example awareness raising, capacity development services and training. Assisting in the provision of back-end services may also be appropriate in some cases.</p>	<p>The Board understands the GAC’s desire to learn more about plans for the Applicant Support Program (ASP), including financial support and engagement aspects, in advance of the ICANN78 meeting.</p>	<p>The Board acknowledges and greatly appreciates the GAC’s emphasis on engaging actors in underrepresented or underserved regions. The Board notes that SubPro Final Report Implementation Guidance 17.6 states: “Outreach efforts should not only target the Global South, but also those located in struggling regions that are further along in their development compared to underserved or underdeveloped regions.” While the Board anticipates ICANN’s engagement plans will include efforts related to actors in underrepresented or underserved regions, both the SubPro Final Report (IG 17.6) and the Draft GNSO Guidance Process for ASP emphasize that communications, outreach, awareness, and engagement should not be limited to specific geographies.</p> <p>As comments from GAC colleagues indicate, it is difficult to define an agreed list of underserved and underdeveloped regions and countries in relation to the DNS. The Board welcomes additional GAC input on this, taking into account the GNSO Guidance Process for ASP has developed draft outputs related to outreach and awareness that also reference a part of the GAC’s definition: an “under-served region, is one that does not have a well-developed DNS and or associated industry or economy.” In referencing the GAC’s definition, the GGP WG agreed that the term “under-served” could also encompass indigenous communities and groups.</p> <p>As the recommendations relating to Applicant Support are under discussion and pending action by the Board, the Board defers action on this advice until such time as these deliberations are completed. Considering the Board’s ongoing work in relation to pending Recommendation 17.2, relating to expanding the scope of financial support, ICANN may not be in a position to share specific plans related to this recommendation by ICANN78.</p>
<p>§3.a.ii Applicant Support in New gTLD Applications</p>	<p>a. The GAC advises the Board to:</p> <p style="padding-left: 40px;">i. To take steps to substantially reduce or eliminate the application fees and ongoing ICANN registry fees to expand financial support for applicants from underrepresented or underserved regions.</p> <p><u>RATIONALE:</u></p>	<p>The Board understands the GAC is recommending reduction or elimination of application fees in the next round, and that the GAC would support ICANN org providing fee reductions to new registry operators that qualified for such support in the New gTLD Program.</p>	<p>The Board acknowledges this advice and the importance of financial support for qualified supported applicants. The Board is conducting ongoing work in relation to pending Recommendation 17.2, relating to expanding the scope of financial support.</p> <p>As the recommendations relating to Applicant Support are under discussion and pending action by the Board, the Board defers action on this advice until such time as these deliberations are completed.</p>

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	<p>The GAC reaffirms the importance of increasing the number and geographical distribution of applications from underrepresented or underserved regions in future rounds of New gTLDs through the Applicant Support Program. The GAC reiterates its “support for proposals to substantially reduce or eliminate the application fees and ongoing ICANN registry fees to expand financial support” , in order to sufficiently cover all such applications.</p> <p>Without a substantial reduction in, or financial support for, the application and ongoing fees, many potential applicants in underrepresented or underserved regions would be unable to apply due to the status of their economies, where available capital for ICT/digital initiatives has been historically limited.</p> <p>The GAC highlights that non-financial support is also an important element of an applicant support programme, for example awareness raising, capacity development services and training. Assisting in the provision of back-end services may also be appropriate in some cases.</p>		
<p>§3.a.iii Applicant Support in New gTLD Applications</p>	<p>a. The GAC advises the Board to:</p> <p>i. To take timely steps to facilitate significant global diversification in the New gTLD Program by ensuring increased engagement with a diverse array of people and organizations in underrepresented or underserved markets and regions, including by:</p> <ul style="list-style-type: none"> ● Raising awareness of the Applicant Support Program; ● Providing training and assistance to potential applicants; ● Exploring the potential to support the provision of back-end services; and ● Providing adequate funding for the Applicant Support Program consistent with diversification targets. <p><u>RATIONALE:</u></p> <p>The GAC reaffirms the importance of increasing the number and geographical distribution of applications from underrepresented or underserved regions in future rounds of new gTLDs through the Applicant Support Program. The GAC reiterates its “support for proposals to substantially reduce or eliminate the application fees</p>	<p>The Board understands that the GAC is suggesting a set of possible steps to help facilitate global diversification in the New gTLD Program.</p>	<p>The Board acknowledges and appreciates this advice. The Board anticipates that ICANN’s communications and engagement plans will articulate how to best raise awareness and provide training and assistance to potential ASP applicants.</p> <p>The Board acknowledges the importance of the ASP in relation to realizing Affirmation 1.3, that, “the primary purposes of new gTLDs are to foster diversity, encourage competition, and enhance the utility of the DNS.”</p> <p>The Board also notes that it is critical to acknowledge the many challenges for potential applicants from underrepresented or underserved communities. While ASP is a critical component of increasing diversity, there may be other issues beyond fees, training, and access to pro bono professional services. Potential applicants may face other barriers in applying for a gTLD, being successful in their gTLD application, and then managing the registry in a secure and stable manner.</p> <p>The next round of the ASP presents a significant learning opportunity to test our collective assumptions about barriers to entry for diverse, underrepresented, and underserved applicants. With a robust evaluation of the ASP, that learning can then be applied to improve the program in future rounds.</p>

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	<p>and ongoing ICANN registry fees to expand financial support” , in order to sufficiently cover all such applications.</p> <p>Without a substantial reduction in, or financial support for, the application and ongoing fees, many potential applicants in underrepresented or underserved regions would be unable to apply due to the status of their economies, where available capital for ICT/digital initiatives has been historically limited.</p> <p>The GAC highlights that non-financial support is also an important element of an applicant support program, for example awareness raising, capacity development services and training. Assisting in the provision of back-end services may also be appropriate in some cases.</p>		<p>As the recommendations relating to Applicant Support are under discussion and pending action by the Board, the Board defers action on this advice until such time as these deliberations are completed. The Board encourages continued participation by the Small Group of GAC representatives on the GGP on Applicant Support.</p>
<p>§4.a.i Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets in New gTLDs</p>	<p>a. The GAC advises the Board to:</p> <p style="padding-left: 40px;">i. To take steps to avoid the use of auctions of last resort in contentions between commercial and non-commercial applications; alternative means for the resolution of such contention sets, such as drawing lots, may be explored.</p> <p><u>RATIONALE:</u></p> <p>While the GAC acknowledges that, in an attempt to reduce potential gaming, recommendation 35.3 of the SubPro PDP Working Group Final Report included the need for applications to be submitted with a “bona fide” intention to operate a TLD, the GAC reiterates concerns regarding the implementation of this condition, and notes that punitive measures for non compliance with the condition of submission of a “bona fide” intention are not sufficiently defined.</p> <p>Regarding Auctions of Last Resort, the GAC reaffirms its view that they should not be used in contentions between commercial and non-commercial applications. In addition the GAC reiterates that private monetary means of resolution of contention sets should be banned or strongly disincentivized, to prevent applications under false pretences for monetary gain. Other means, like drawing lots, may be used to resolve contention sets.</p> <p>The GAC supports ALAC’s view expressed in its advice to the ICANN Board noting that they believe there “should be a ban on private</p>	<p>The Board understands that the GAC would like the Board to take steps to avoid the use of auctions of last resort in contentions between commercial and non-commercial applications. The Board understands that the GAC encourages the consideration of alternative means for the resolution of such contention sets. Based on input from the GAC on the Board’s clarifying questions, the Board understands that the GAC’s distinction between commercial and non-commercial applications in this advice is regarding features of the application, including the application’s business plan, rather than the applications legal entity.</p>	<p>As the recommendations relating to auctions are under discussion and pending action by the Board, the Board defers action on this advice until such time as these deliberations are completed.</p>

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	<p>auctions” and that ”by mandating ICANN only auctions, the proceeds of any such ICANN auctions can at least be directed for uses in pursuit of public interest, such as was determined through the CCWG on Auction Proceeds.”</p>		
<p>§4.a.ii Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets in New gTLDs</p>	<p>a. The GAC advises the Board to:</p> <p style="padding-left: 40px;">i. To ban or strongly disincentivize private monetary means of resolution of contention sets, including private auctions.</p> <p><u>RATIONALE:</u></p> <p>While the GAC acknowledges that, in an attempt to reduce potential gaming, recommendation 35.3 of the SubPro PDP Working Group Final Report included the need for applications to be submitted with a “bona fide” intention to operate a TLD, the GAC reiterates concerns regarding the implementation of this condition, and notes that punitive measures for non compliance with the condition of submission of a “bona fide” intention are not sufficiently defined.</p> <p>Regarding Auctions of Last Resort, the GAC reaffirms its view that they should not be used in contentions between commercial and non-commercial applications. In addition the GAC reiterates that private monetary means of resolution of contention sets should be banned or strongly disincentivized, to prevent applications under false pretences for monetary gain. Other means, like drawing lots, may be used to resolve contention sets.</p> <p>The GAC supports ALAC’s view expressed in its advice to the ICANN Board noting that they believe there “should be a ban on private auctions” and that ”by mandating ICANN only auctions, the proceeds of any such ICANN auctions can at least be directed for uses in pursuit of public interest, such as was determined through the CCWG on Auction Proceeds.”</p>	<p>The Board understands that the GAC would like the Board to ban or disincentivize private monetary means of resolution of contention sets, including private auctions.</p>	<p>As the recommendations relating to auctions are under discussion and pending action by the Board, the Board defers action on this advice until such time as these deliberations are completed.</p>

GAC Follow Up on Previous Advice Item	Advice Text	Board Understanding Following Board-GAC Call	Board Response
Follow-up 1 - Privacy and Proxy Services	The GAC thanks the Board for the reprioritisation of the Privacy Proxy Services Accreditation Issues (PPSAI) policy recommendations, as per the GAC's previous advice. In addition, the ICANN76 Advice requested that the Board regularly update the GAC on the status of activities related to Privacy and Proxy services. In that regard, the GAC appreciates the update from the Board during ICANN77 on the status of developments regarding Privacy and Proxy services and the GAC would welcome continued updates, including providing detail in writing.	The Board understands that the GAC appreciates the Board's update regarding PPSAI and related activities during the ICANN77 public meeting. The Board also understands that the GAC welcomes continued updates, including updates in writing.	The Board appreciates the GAC's interest in this topic and will continue to provide updates on the ongoing work in this area.