

Date:

Dear Tripti,

We write to update you and the ICANN Board of Directors on the status of the facilitated dialogue on closed generic gTLDs. On 7 August 2023, as a result of discussions amongst the three of us, we sent the following joint letter to the dialogue participants in response to several questions they had referred to us in our capacity as Chairs of the three groups represented in the dialogue: [INSERT LINK WHEN AVAILABLE].

You will see from the letter that we have collectively determined that:

- (1) it is not necessary to resolve the question of closed generic gTLDs as a dependency for the next round of new gTLDs. As such, we request that the Board remove it as a dependency and allow the next round to proceed;
- (2) unless and until there is community-developed consensus policy in the future on the topic, the GAC and the ALAC request that the Board maintain the position that any applications in the next and future rounds of new gTLDs seeking to impose exclusive registry access for "generic strings" 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) should not proceed; and
- (3) any future community policy work on this topic should be based on the good work that has been done to date in this facilitated dialogue and the previous work of the New gTLD Subsequent Procedures Policy Development Process (PDP).

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In respect of (2) above, we note that the GNSO Chair takes no position on this point, as the GNSO Council's role is to manage the community process for developing gTLD policies through the bottom-up stakeholder process. As such, the GNSO Council does not have the unilateral authority to make a policy-related recommendation outside the policy development process set forth in its Operating Procedures. The New gTLD Subsequent Procedures PDP Working Group discussed closed generic gTLDs extensively but did not reach consensus on the topic, both on a policy position for future rounds and on what constitutes the status quo.

We understand, of course, that our decision to conclude the dialogue at this stage and for the reasons described in our letter cannot bind the Board to any decision on the handling of any applications for closed generic gTLDs for the next and any subsequent rounds of new gTLDs. We acknowledge that under the Bylaws the Board has a "*duty to act in what they reasonably believe are the best interests of ICANN*" (Section 7.7).

We encourage the Board to take into account our letter to the dialogue participants in coming to a decision on the topic of closed generic gTLDs. In particular, we wish to draw the Board's attention to the

extensive good faith deliberations that took place in the facilitated dialogue which nevertheless seemed to reveal a number of fundamental issues in the community on the topic, as well as the fact that the decision not to continue with the dialogue at this point was a decision that we took jointly after carefully considering the facts of the matter.

For clarity, as noted in our letter to the dialogue participants, our intention is not to prevent or restrict applications for gTLDs that applicants intend to operate in a restricted manner, i.e., where third party registrants are limited to those who meet specific eligibility qualifications, irrespective of whether the string in question is a “generic” one as currently defined in the Registry Agreement.

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At our request, the dialogue participants are now making sure that their work is documented thoroughly, including preparation of an outcomes report that will also include lessons learned from the techniques and methods they used in their attempts to reach agreement on this long-standing issue. We look forward to receiving the group's report and to transmitting it to you for your further information.

Finally, we wish to express our and our communities' deep appreciation to Alan Barrett and Patricio Poblete, the Board liaisons to the facilitated dialogue, whose regular attendance and thoughtful contributions to the group's work were extremely helpful. We would also like to thank the ICANN staff members from the Policy Development Support and Global Domains & Strategy functions who facilitated, supported, and contributed input to the dialogue in their respective roles and in their usual professional manner.

Please do not hesitate to contact us if you have questions or wish to discuss the matter further.

Best regards,

Jonathan Zuck, ALAC Chair  
Nicolas Caballero, GAC Chair  
Sebastien Ducos, GNSO Chair