

GAC Advice Response Form for Applicants



The Governmental Advisory Committee (GAC) has issued advice to the ICANN Board of Directors regarding New gTLD applications. Please see Section IV, Annex I, and Annex II of the [GAC Beijing Communiqué](#) for the full list of advice on individual strings, categories of strings, and strings that may warrant further GAC consideration.

Respondents should use this form to ensure their responses are appropriately tracked and routed to the ICANN Board for their consideration. Complete this form and submit it as an attachment to the ICANN Customer Service Center via your [CSC Portal](#) with the Subject, "[Application ID] Response to GAC Advice" (for example "1-111-11111 Response to GAC Advice"). All GAC Advice Responses must be received no later than 23:59:59 UTC on 10-May-2013.

Respondent:

Applicant Name	Open Universities Australia PTY Limited
Application ID	1-1327-45933
Applied for TLD (string)	.courses

Response:

We appreciate the opportunity to provide the ICANN Board of Directors with our response to the Governmental Advisory Committee (GAC) Advice articulated in the GAC Beijing Communiqué ("Communiqué"). In the Communiqué one of our applied-for new gTLD strings <.courses>, was identified by the GAC in its "Safeguard Advice" in Annex 1 as a Category 2 (Restricted Registration Policies), Sub-category 2 (Exclusive Access) gTLD.

We are concerned by the GAC's position that "...strings representing generic terms, exclusive registry access should serve a public interest goal." We are concerned for three (3) specific reasons:

1. The GAC is adding de facto application requirements for New gTLD applications that may adversely affect an applicant's ability to secure and fully utilize the gTLD for the purpose they intended. Applicants, such as Open Universities Australia PTY Limited, reasonably relied on and made a decision to apply for a gTLD, like in our case .courses, based on the requirements outlined in the ICANN New gTLD Applicant Guidebook ("AGB"). Prior to launch of the New gTLD Application Window in January 2012, the AGB had gone through several years of extensive community policy debate and revision, in which the GAC was privy and actively took part. The time to add the requirement that a string representing a generic word should serve a public interest goal would have been during those policy discussions and not now; more than a year after applicants committed resources (time/money/staff) and built business plans and strategies for which their applied for new gTLD, such as .course in our case, is a critical component. Addition of such criteria at this late stage is not only unfair, but also significantly undermines the ICANN bottom-up, multi-stakeholder, consensus policy development process.

2. The determination of whether a string serves a "public interest goal" is subjective and lacks universal meaning and determination criteria, which will result in inconsistent determinations and repeated conflict among private and public stakeholders. While we believe operating

.courses utilizing a closed registry model where only Open Universities PTY Limited and its affiliates can utilize second-level names to provide authorized, secure and accurate content, classes and offerings of Open Universities PTY Limited and its affiliates will serve the "public interest", other 3rd parties, like a individual government agency, may feel the restricted access to the TLD is contra to the "public interest" in their country, territory or region. Who will make the final determination as to this designation? What criteria will be used and how can ICANN ensure there is consistency in the these determinations? Without universal, objective standards of what is considered a "public interest goal" and expert panels who have experience in making determinations regarding "public interest goals" that are independent of individual government influence, predictable and uniform determinations are impossible to expect and achieve. Thus, some applicants may find themselves barred from operating their gTLD as intended and expected, resulting in material harm to applicants whose strings are determined to not meet "public interest goals".

3. The GAC Advice articulated for Category 2 (Restricted Registration Policies), Sub-category 2 (Exclusive Access) gTLDs has the potential to cause unreasonable delays in final gTLD application determinations due to its broadness and lack of specificity. While we understand that the GAC's mandate is to raise issues of public policy to the ICANN Board, we believe such advice should be specific and capable of timely implementation. Simply stating "...strings representing generic terms, exclusive registry access should serve a public interest goal" is overly broad and reads more like a mandate, than advice on how to responsibly regulate and govern the issuance of new gTLDs. Without more detailed advice about considerations and mechanisms that could be used to reach the determination that a string will serve "public interest goals," acceptance of this piece of GAC Advice would not only cause unreasonable delays to applicants in the final determination of their gTLD application, but also set a dangerous precedent that it is acceptable for the GAC to issue mandates after the policy-making process and not provide specific recommendations and inputs during the policy formulation stages.

Therefore, for the above-stated reasons, Open Universities PTY Limited recommends that the ICANN Board of Directors reject the GAC Advice that requires "...strings representing generic terms, exclusive registry access should serve a public interest goal" as overly broad and unactionable.

In the alternative, if the ICANN Board determines that it agrees with the GAC Advice that "...strings representing generic terms, exclusive registry access should serve a public interest goal" please let it stand for the record that Open Universities PTY Limited contends that exclusive registry access of .courses by Open Universities PTY Limited does serve a public interest goal. Over the last 5 years, online educational offerings have grown exponentially; unfortunately so has fraud in the space. As a result, it has been difficult for providers of online education to easily distinguish themselves as legitimate suppliers and for learners to know who they can trust. Open Universities PTY Ltd. believes that the .courses gTLD can help solve that problem and achieve the public interest goal of providing a secure, legitimate and trusted space for online learning for its students/clients and its network of affiliated partners through exclusive ownership and operation of the gTLD. Open Universities PTY Ltd.'s business model is not to operate the registry for the purposes of generating revenue, but instead self-fund the operation of the registry as a platform for the strategic purpose of building trust and legitimacy of its online course offerings in the global marketplace.

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We hope the ICANN Board finds this insight helpful. If additional information is required about the .course gTLD, we welcome the opportunity to work with ICANN to answer any questions.