

Denmark finds a need for clarification as to when GAC Advice and GAC Early Warnings can be expected to be used as measures in connection with applications for new gTLDs.

The explanatory text motivating the public comment on Defensive Applications for new gTLDs includes the following paragraph:

*In addition to the objection process, there is also a formal process for governments, through ICANN's Governmental Advisory Committee, to provide advice to the ICANN Board in relation to the approval of an application. Through this process governments can directly advise the ICANN Board to reject an application for a top-level domain.*

Denmark is worried that this text will mislead trademark owners and others to believe that GAC Advice and GAC Early Warnings will be used to protect intellectual property rights in individual cases when an application for a string potentially offends such rights. Denmark is also worried that the text will have trademarks owners engaging their government to place an Early Warning or suggest a GAC Advice about their individual complaint.

It's true that GAC members can raise concerns about any application to the GAC or directly to ICANN. However, it is Denmark's perception – and we expect that this view is shared by other GAC members – that GAC Advice and Early Warnings will be used primarily to advise and warn applicants and ICANN about cases that represent matters of principle and are related to general public policy issues. It is not customary for governments to intervene in civil cases between two private parties.

We hope this clarification will help to avoid any confusion between the Objection and Dispute Resolution Process and the GAC Advice and GAC Early Warning processes.