New gTLD Subsequent Procedures PDP Update #1

Status of Public Comments Review

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PURPOSE OF UPDATES

Draw attention to selected public comments received during Aug-Sep 2020 PC proceedings:

- Treatment of ALAC Comments
- Other comments of interest
- SubPro PDP WG leanings

Determine possible responses:

1. ALAC Advice
2. ALAC Minority Statement
3. Comment
4. No further action
5. Other?

SUBPRO TOPICS COVERED

as at 14.11.2020

1. 1. General Comments
2. 2. Predictability
3. 17. Applicant Support
4. 32. Limited Challenge/Appeals Mechanism
5. 12. Applicant Guidebook
6. 13. Communications
7. 14. Systems
8. 20. Application Change Requests
9. 24. String Similarity Evaluations
10. 35. Auctions – *ongoing discussion*
11. 15. Application Fees
12. 36. Base Registry Agreement
13. 31. Objections
14. 30. GAC Early Warning & GAC Consensus Advice
15. 28. Role of Application Comment
16. 9. Registry Commitments (Public Interest Commitments & Registry Voluntary Commitments)
17. 34. Community Applications (+ Community Priority Evaluations)

2. Predictability

as at 27-10-2020

"Access to SPIRT":

- GAC wants ability to refer issues to SPIRT rather than have to go through GNSO Council, ICANN org or ICANN Board
  - Prudent to allow SO/ACs to bring issues to SPIRT as well?

3 Comment

4 No further action

Membership of SPIRT:

- SPIRT membership meant to be open to all, qualifications apply
- SO/AC Liaison to the SPIRT?
  - Would this compromise openness of membership?
  - Nothing stopping ALAC from naming volunteer as liaison

3 Comment

4 No further action

5 Other?

Emergency Situations

- Board to reserve for itself the ability to take action in an "emergency".
  - Transparency requiring disclosure to SPIRT within specified time period sufficient?
- Distinct from intent to rein in ICANN org's discretion to act

3 Comment

4 No further action

5 Other?

31. Objections

as at 9-11-2020

ALAC Standing in Community Objection:

- ALAC should be equal in standing to the Independent Objector insofar as not having to prove a link to the community invoked in its Community Objection
  - No agreement in Work Track 3 – no duplication of Independent Objector role.
  - No interest to revisit this issue.
- No change, means ALAC will continue to be subject to standing criteria
  - No automatic standing like Independent Objector
- Curative mechanism – Limited Appeal Mechanism

1 ALAC Advice

2 ALAC Minority Statement

9. Registry Commitments (PICs & RVCs)

as at 12-11-2020

24.
String Similarity Evaluations
as at 2-11-2020

36.
Base Registry Agreement
as at 5-11-2020

Enforcement, Bylaw conflict:

- Board: PICs and RVCs enforceability re: Bylaws s. 1.1(d)(ii)(A)(1) and (2)
  - How to utilize PICs and RVCs without the need for ICANN to assess and pass judgment on content?
    - PICs, String Similarity, Community TLDs commitments
  - How to frame "public interest" in context of a PIC and PICDRP, to ensure objective enforceability lies within ICANN's mission?
- ICANN org: How to address community disagreement over Cat 1 safeguards per Spec 11 3 (a) obligations?
- NABP: Safeguards in Base RA only require that provisions be documented in RRA, not actually doing it. Need for compliance?

RVCs:

- ICANN Org:
  - Who will review submitted RVCs?
  - How will review be conducted?
  - Cut-off for accepting changes to prevent gaming?
  - Meant to subsist on contract renewal /TLD assignment?
  - Can be modified or removed in future?

- Subject to further discussion with Board Liaisons
- Tie into ICANN Org questions
- Potential amendment in Base RA to be discussed further

9. Registry Commitments (PICs & RVCs)

as at 12-11-2020

24.
String Similarity Evaluations
as at 2-11-2020

36.
Base Registry Agreement
as at 5-11-2020

Prohibition of fraudulent / deceptive practices in PIC or base RA?

- PICDRP requires evidence of harm

Subject to further WG discussion

DNS Abuse:

- To be handled in a holistic manner and beyond the scope of this PDP
- GAC: Expects swift action from GNSO Council in triggering such holistic effort

1 ALAC Advice

2 ALAC Minority Statement

4 No further action

34. Community Applications & CPE

as at 12-11-2020

28.
Role of Application Comment
as at 9-11-2020

Major reform of CPE process, criteria, guidelines:

- Changes to CPE process
  - COI challenge mechanism
  - Synchronize public comment period – Applicant Comment Period should only run for predetermined period per AGB, only source of comments considered during evaluations
  - Limited challenge/appeal mechanism
  - Use of research, more dialogue
  - Verification of commentor in support / opposition
- Changes to CPE criteria:
  - Broader, more flexible "community" - avoid bias towards economic-driven groupings
  - Independence in scoring of Criteria, sub-criteria
  - Flexibility, clarity in Criteria, sub-criteria application
  - No imbalance in support vs opposition
  - Lower threshold to prevail
- More awareness on use of PICDRP and RRDRP
- Greater community participation in ICANN's engagement of a CPE service provider/panellists:
  - (i) development of criteria to evaluate and select candidates;
  - (ii) shortlisting of identified candidates;
  - (iii) final selection process; and
  - (iv) terms for inclusion into the contract between ICANN Org and the selected candidate.
- More grassroot participation and expertise in evaluation panels

- Much of what ALAC commented likely accepted – need to see revisions to Recs/IGs
- ALAC's proposition for greater community participation in selection and engagement of CPE provider still being discussed