

ALAC Updates ----JUNE - AUG 2021

Policy development activities

Statements approved by the ALAC

[ALAC Advice to the ICANN Board on the System for Standardized Access/Disclosure to Non-Public Domain Name Registration Information\(SSAD\)](#)

The ALAC notes with appreciation the hard work of the EPDP Phase 2 team which resulted in producing an initial report outlining a proposed system for standardized access/disclosure to non-public gTLD registration data (SSAD) accompanied by 18 recommendations and an addendum to the initial report addressing priority two items accompanied by four recommendations and two conclusions.

While ALAC acknowledges that the Phase 2 team was successful in arriving at consensus in relation to many of the Phase 2 recommendations and as we ensure our full commitment to ICANN processes and multistakeholder model, we find ourselves obliged to present this advice to the Board to safeguard the interests of the individual Internet end users.

Our advice to the Board relates to five main areas related to the recommendation detailing the proposed SSAD.

1.The ability of the SSAD to fulfill the requirements of the system's users (Non-public information requestors)

The SSAD was initially envisioned in order to allow third parties with legitimate interests and lawful basis to obtain non public registration data in a timely manner. Many of these legitimate interests and purposes for the use of the SSAD are related to the protection of Internet users; as such, ALAC would like to see the proposed system fulfilling the needs of its users. However, the service level agreements associated with the requests'types, the assigned priorities, and the lack of effective automation make it impossible for the SSAD to fulfill the needs of urgent requests as well as requests related to consumers' protection among others. The reliance on each registrar to make data disclosure decisions ignores prime requirements-predictability and consistency.

Moreover, there is a high probability that the costs associated with using the SSAD may deter its usage in many instances, ultimately resulting in the inability to meet the self- Financing requirement.

2.The Proposed system in most cases offers a service that does not differ much from the current practice.

While the system automates the receipt, authentication and transmission of SSAD requests to the relevant contracted party, all disclosure decisions apart from four limited use cases are handled in a manner that does not differ much from the current practices. Those current practices have proven inadequate, and there is little reason to believe that with the SSAD, it will be better.

The ALAC does appreciate that IF the system is actually used, it would provide statistics of how requests are handled, and there is merit in that.

3.The agility of the system and its ability to adapt and evolve

A system recently implemented by a large Registrar assigns a price of US\$50 per request. The service offered may not be comparable to the SSAD, but it does set an interesting price level that clearly some in the contracted party community feel is reasonable. It has been judged as not reasonable by a number of potential users. Given the novelty of the proposed solution and possible legal clarity as time passes and more cases are globally addressed, SSAD was expected to be able to adapt and evolve based on new findings and learned experiences. However, the proposed recommendations do not allow for an agile system that could evolve without further PDPs.

4.The consensus level that some of the recommendations received

Six out of the 18 recommendations received significant opposition. These recommendations address the response requirements, contracted party authorization, automation of the SSAD, service level agreements related to non automated disclosure requests, disclosure requirements,review of implementation using a GNSO standing committee and the ability of the system to adapt and evolve. All of the recommendations lacking consensus are core recommendations to the operation of the proposed system for access/disclosure, which indicates lack of community support for the proposed model. Two of the recommendations did not even receive “strong support” but were classed as “divergent” (Priority Levels and Financial Sustainability).

The ALAC questions the concept of a Consensus Policy based on recommendations that did not have consensus within the PDP WG! To the best of our knowledge, this

is the first time that the GNSO Council has passed a non consensus PDP recommendation to the Board for Consensus Policy approval and implementation.

5. Legal/Natural differentiation

At the end of Phase 2, the ALAC was optimistic that future efforts might ensure a Legal/Natural differentiation and that the SSAD recommendations could be amended to allow automated disclosure for Legal Person registrations. It now appears that such a change will not occur. It seems likely that EU NIS2 regulations and legislation will require such differentiation in the near future, but only for those registrars affected by such legislation (resulting in a very uneven playing field). To accommodate such legislation within the SSAD for the entire registrar community would require a further PDP.

The system as currently proposed will require significant time, effort and cost to implement. There is little indication that it will even come close to meeting the needs of the proposed users. Moreover, there is little evidence that the requirement for it to be largely operationally self-funded by the users will result in a pricing level that will be acceptable to those users-making the implementation of the system even more risky.

In summary, if the SSAD is even used, it will provide a very expensive, very complex, glorified ticketing system. And despite the benefits that a ticketing system provides, the likely costs imply that it may be bypassed by its intended users. In summary, the ALAC still strongly believes that a system such as the SSAD is needed to reveal redacted registration data for those with a legally justified need to know in a timely manner. But the SSAD as specified by the EPDP is not such a system.

Recommendations number 5, 8, 9, 10, 12 and 18 received significant opposition designation.

The ALAC advises the ICANN Board to:

Either reject the SSAD recommendations and/or request that the GNSO Council reconsider the issue, perhaps with a suitable delay to fully understand the potential changes to the GDPR-related regulations in Europe.

Immediately have ICANN Org design and begin implementation of a no-charge ticketing/tracking system to track requests for disclosure of non-public gTLD registration information. Such a system has no need for accreditation, thus

simplifying the implementation. This can likely be built upon existing components already in use within ICANN, or commercial solutions readily available.

If a PDP is required to require that all contracted parties use it, such a targeted GNSOPDP should be initiated by the Board. Consideration should be given to having the ticketing/tracking system also apply to Privacy/Proxy providers.

Should regulations comparable to those related to domain name registration data in the NIS2 proposal be adopted by the European Union Council and Parliament, the ICANN Board should immediately consider initiating a targeted GNSO PDP to ensure that all ICANN registrars are subject to comparable rules. This will provide fairness within the registrar community and ensure that we do not end up with registrars outside of the EU being able to provide higher levels of anonymity to those registering domains in support of DNS abuse and other fraudulent or illegal activities.

This last advice is not directly related to the SSAD, but the lack of an SSAD (or equivalent) implies that we need to maximize the amount of information legally published in the non-redacted RDDS. This is in line with ICANN's original intent of "maintaining the existing WHOIS system to the greatest extent possible".

End Note:

Although not forming part of this Advice to the Board, the ALAC notes a disturbing trend. We are seeing an increasing number of PDPs that consume very significant ICANN Org and community resources, but ultimately do not have any viable results, or have results very different from those envisioned. Examples Include:

Thick WHOIS: Approved in October 2013 (8 years ago!); largely implemented but
now
paused and likely to be discarded.

- Privacy Proxy: Approved in December 2015 (approaching 6 years); implementation paused and unclear whether it will continue.
- EPDP Phase 1: Approved in February 2019 and envisioned to be implemented and operationalized by the contracted parties by February 2020. We are now over 2
years

into the ICANN Org implementation with more work to do before contracted party implementation even begins.

- EPDP Phase 2: The subject of this Advice Further discussion and analysis as to why we are investing so much effort and resources with such disappointing outcomes may be warranted.

[Request for Inputs on Topics on Transfer Policy Review PDP Charter](#)

The ALAC/At-Large community welcomes the opportunity to take part in the Transfer Policy Review PDP.

In this PDP WG, the At-Large end user community will emphasize the Registrant perspective, and advocate processes and policies that make an Inter-Registrar Transfer and a Change of Registrant simple, safe and secure.

In this phase of the work, the At-Large community believes that the questions addressed in the charter are conclusive for the PDP WG to set an updated Inter-Registrar Transfer and Change of Registrant Policy. However, At-Large sees the need to take the different business models of the Registrars into account in the policies. Hence, the charter questions must include the extension of a Registrar's obligations to their resellers.

Further, At-Large will advocate obligations to the Registrars to inform the Registrant about the transfer processes in an understandable way. These obligations concern Registrars and resellers.

Finally, At-Large will emphasize the security connected to the Transfer Authorization Code (TAC) and management of the TAC. This includes, but is not limited to, the processes and requirements for the Registrars to give Registrants access to the TAC, and distribute this in a simple, safe and secure way

[Initial Report of the Expedited Policy Development Process \(EPDP\) on the Temporary Specification for gTLD Registration Data Team–PHASE 2A](#)

EPDP Phase 2A Public Comment Form

This Public Comment forum seeks community feedback on the Initial Report published

by the Expedited Policy Development Process (EPDP) Team on the Temporary Specification for gTLD Registration Data-Phase 2A.

This format for collecting public comment seeks to:

- Clearly link comments to specific sections of the Initial Report
- Encourage commenters to provide reasoning or rationale for their opinions
- Enable the sorting of comment so that the EPDP team can more easily read all the comments on any one topic

There is no obligation to complete all sections within this form—respond to as many or as few questions as desired. Additionally, there is the opportunity to provide comments on the general content of the Initial Report or on new issues not raised by the Initial Report.

It is important that your comments include rationale (i.e., by answering the “rationale” question in each section). This is not a vote. The EPDP team is interested in your reasoning so that the conclusions reached and the issues discussed by the team can be tested against the reasoning of others. (This is much more helpful than comments that simply “agree” or “disagree”).

Please note that the EPDP Team has (i) reviewed previous comments on both legal v.

natural and feasibility of unique contacts and (ii) discussed these issues comprehensively during Phase 2A.

For that reason, please refrain from repeating positions already stated in the Initial Report, as the Team has discussed these positions extensively.

The Team is particularly interested in:

- New information and proposals
- Specific edits

To stop and save your work for later, you MUST (to avoid losing your work):

1. Provide your email address above in order to receive a copy of your submitted responses;
2. Click "Submit" at the end of the Google Form (the last question on every page allows you to quickly jump to the end of the Google Form to submit);
3. After you click "Submit," you will receive an email to the above provided email address; within the email, click the "Edit Response" button at top of the email.

4. After you click the "Edit Response" button, you will be directed to the Google Form

to return and complete

5. Repeat the above steps 2-4 every time you wish to quit the form and save your progress.

NOTES:

--For transparency purposes, all comments submitted to the Public Comment forum will be displayed publicly via an automatically-generated Google Spreadsheet when the commenter hits the "Submit" button. Email addresses provided by commenters will not be displayed.

--To maximize the visibility of your comments to the EPDP Team, please submit your comments via this form only. If you are unable to use this form, alternative arrangements can be made.

--Please note there is a character limit of 2000 characters when submitting a response. In the event you encounter a character limit, you may send an email to policy-staff@icann.org, and the EPDP Support Staff will assist you with your response.--The final date of the public comment proceeding is 18 July 2021.

RrSG Draft White Paper: Registrant Protections in DNS Abuse Mitigation.

The At-Large community welcomes both the initiative by the Registrar Stakeholder Group (RrSG), to address Registrant Protections in DNS Abuse Mitigation, as well as the opportunity to comment. The occasionally conflicting interests of registrant and non-registrant individual end users demands we find the right balance in the fight against DNS abuse.

Overall, the paper represents an excellent collection of redress mechanisms that ought to be available to registrants, in the case of mistaken take-down. The At-Large would like to proffer just a few points.

1.Evidence

The topic of poorly constructed and poorly supported complaints is ongoing and the At-Large would like the RrSG to consider more fully exploring this topic with examples, even if hypothetical. Giving registrars a checklist or framework, with which to evaluate a complaint, would help standardize both the formulation and resolution of complaints. Perhaps some criteria for identifying a pattern of abuse would be helpful in separating the spurious from the systemic.

2.3rd Party abuse

The white paper makes two references to 3rd party responsibility for abusive conduct. In the second case, it is mentioned in the context of a reversal of an action taken by a registrar, based on an abuse report. This seems wholly appropriate. However, in the first instance, there is a suggestion that "a domain name should not be labelled as abusive when the abusive usage results from the action of a third party." This would seem to imply that determination of responsibility should happen prior to any action, taken by the registrar and that seems inappropriate. If the

domain hosts verifiable abuse, particularly as its primary function, it should be taken down immediately and restored after a fix has been applied. The fact that the abuse was not the result of malice by the domain holder should not deter action taken to mitigate that abuse.

3. Proportion of domain use

It is also often mentioned that random abuse, in an otherwise non-abusive domain, needs to be handled differently. If, for example, a comment, on a news site, contains a phishing link, it is not appropriate to take down the entire domain. Perhaps a framework for alternative mitigation, involving the domain owner or website host, is appropriate. Again, the more that can be laid out with examples, the better

-We of the At-Large community appreciate the opportunity to comment and welcome any ongoing dialog on the issue of DNS abuse mitigation. We hope these comments are helpful.

[APRALO Statement on Subsequent Procedures Final Outputs](#)

The ICANN Asian, Australasian and Pacific Islands Regional At-Large Organization (APRALO) thanks the ICANN Board for inviting comments to the GNSO New gTLD Subsequent Procedures Final Outputs 1 and is pleased to provide some comments for the Board's consideration.

First and foremost, APRALO wishes to inform the ICANN Board that it fully endorses the ratified ALAC Advice on Subsequent Procedures of 16 April 2021 (AL-ALAC-ST-0421-02-01-EN)² and notes that the Board has received this ALAC Advice.

1. Need to facilitate increased adoption of Universal Acceptance (UA) & Internationalized Domain Names (IDNs)

As the largest ICANN region spanning the most widespread of nations and therefore also the most diverse of regions in terms of thriving languages, dialects and scripts (i.e. languages in written form), the APRALO maintains a special interest in advocating for ICANN

Consensus policies which will advance the goals of the Universal Acceptance Initiative (UAI) and which will stimulate the introduction of more Internationalized Domain Names (IDNs) at both the top and second levels. We believe both the UAI and introduction of IDN TLDs and SLDs are crucial to efforts to connect to the Internet, the hundreds of millions of Internet end-users who rely on non-Roman script languages for their communications.

We note that the Subsequent Procedures Topic 11 Final Outputs continue to support the UAI and the work of the Universal Acceptance Steering Group (UASG), but do not explicitly provide policy goals that advances the UAI for ICANN Org's implementation per se. We understand and acknowledge that this "gap" can and in many ways, would be better addressed through the ICANN Board's direct support for the UAI as well as ICANN Org's efforts complementary to those undertaken by the UASG. In this respect, APRALO implores the ICANN Board to ensure this happens.

Although disappointed by the lack of Final Outputs to affirmatively prioritize applications for IDNs in the next round, we welcome the inclusion of a Topic 19 Final Output (i.e. Recommendation 19.3) which seeks to somewhat prioritize the processing of applications for IDNs in Subsequent Procedures. To give context from an At-Large perspective in general and as identified by community need for IDN's in the APAC space in TLDs including new Generic

Top Level names in any subsequent rounds, APRALO specifically notes that, just as with the ALAC/At-Large comments to the last round of new gTLDs, a prioritisation should be given to IDNs in all outreach and engagement regarding any program(s) as well as preference/prioritisation to successful applicants proposing IDNs.

2. Need to facilitate increased and equitable access by "Global South", Community /niche TLD applicants through the Applicant Support Program (ASP) & Community Priority Evaluation (CPE) and a ban on private auctions.

There were only 303 of 1,930 applications from the Asia Pacific region during the 2012 New gTLD application round 3 which translates to less than 16% of the total number of applications received by ICANN then. Any endeavour which could assist in staving off a repeat of such a hugely disproportionate result for the next round should be encouraged considering that Asia and Oceania together now roughly account for over 55% of the world's population which in turn comprises about 54% of the world's Internet users.

APRALO notes that ICANN Org is continuing its work on reframing or defining the term "Global South" for purposes, perhaps, of prioritizing or making some concessions for

More effective outreach to potential "Global South" applicants in anticipation of the next round of New gTLD applications. Regardless, we believe that any outreach efforts and communication period must be more than sufficiently resourced and long enough to facilitate the necessary awareness, education and preparedness to achieve a significant increase in applications from the "Global South" in the next round and beyond.

In addition, we think the ICANN Board should neither underestimate the impact which the Applicant Support Program (ASP) will have on encouraging more potential New gTLD applicants from our region, nor the clear risk of gaming of the New gTLD Program for profit if private auctions were permissible as a means to resolve contention sets in Subsequent Procedures. In particular, we think that the ASP and Community Priority Evaluation (CPE) will have an important role in not only increasing the number

of applications from our region, but also improving their chances of securing the strings of their choice, including and especially ones vying for community and/or niche TLDs.

As our specific comments on ASP, CPE and for private auctions to be banned are all similarly presented and grounded in the mentioned ALAC Advice on Subsequent Procedures, we will not repeat them herein and instead, we urge the Board to heed to the ALAC's counsel in the said ALAC Advice.

3. Need for ALAC to have automatic standing to file Community Objections (where ALAC deems necessary)

In reviewing the 2012 round applications for strings with a public and/or community interest angle, the ALAC had established a robust bottom-up evaluation process which involved all five Regional At-Large Organizations (RALOs) and having been funded by ICANN Org, the ALAC filed Community Objections against applications earmarked through that RALO-driven process. There is no reason to presuppose that the same or a similar bottom-up approach will not be replicated to support the ALAC's responsibility to highlight and object to problematic future applications for New gTLDs. In fact, it is clear that the ALAC (along with the Independent Objector) will continue to be funded to file Community Objections (and Limited Public Interest Objections) in Subsequent Procedures. However, APRALO is concerned over the inherent possibility that any Community Objection which the ALAC determines to file under Subsequent Procedures may be dismissed by a Community Objection dispute resolution panelist on the basis of a lack of standing. A dismissal on the basis of lack of standing precludes a consideration of the merits of an objection and would amount to a waste of the resources (which would be) expended in getting the objection filed. Therefore, we wholly support the ALAC's recommendation for the ALAC to be granted automatic standing to file Community Objections in future rounds of the New gTLD Program.