AT-LARGE ADVISORY
COMMITTEE

ALAC Statement

On the Initial Report on Vertical Integration Between Registrars and Registries

Introduction
By the Staff of ICANN

On August 24th, the Chair of the At-Large Advisory Committee, Cheryl Langdon-Orr, asked the Staff of At-Large to start a five-day online ALAC vote on the draft statement on the Initial Report on Vertical Integration Between Registrars and Registries.

The online vote ended on August 28th and resulted in the ALAC endorsing the statement with 12-0 votes. Sebastien Bachollet informed the ALAC that he would be on leave during the voting period and will be recorded as an abstention.

You may review the result independently under:
https://www.bigpulse.com/pollresults?code=1277B7TXgqRJq4MzbLkXi96z

On August 13th, the At-Large Staff transmitted the Draft Statement to Margie Milam, the ICANN staff person responsible for the public consultation process on Initial Report on Vertical Integration Between Registrars and Registries with a note saying that the document was currently undergoing ALAC ratification. On September 10th, the Statement was submitted to the ICANN Board of Directors.

(End of Introduction)

ALAC Statement on the Initial Report on Vertical Integration Between Registrars and Registries

Just as the Vertical Integration (VI) PDP Working Group is split on how to address the overall issue, so is the ALAC and At-Large Community.

There are those who feel strongly that to the extent possible, ICANN has no business dictating business models for the distribution of gTLD second-level names and that the marketplace itself should ultimately decide what models survive. Moreover, there is a belief that this regime should be in place for the first round of new gTLDs. This is embodied in the "Free Trade" proposal described in the VI report which places no limits on ownership or control.

There are others who feel that there are potential harms that can result from such a liberal regime, and that ICANN must first and foremost protect the gTLD eco-system. The implication of this is that ICANN should change as little as possible for the first round in an attempt to not allow structures that may prove to be harmful until we have the time to properly study and understand the issues. This is embodied in the "RACK+" proposal described in the VI report which maintains today's limits of 15% ownership of registrars by registries, adds similar restrictions on registrar and registry service providers and introduces limits on control as well as ownership.

Although not represented by those from At-Large who are active in the WG, there are no doubt proponents of the middle-ground "JN+" proposal which allows cross or co-ownership and control, but restricts registrars affiliated with a registry from marketing the registries own TLDs. (NB: The capsule descriptions of the three proposals here are not meant to fully represent those proposals, but are just included to allow this statement to stand on its own.) Proponents of all proposals acknowledge that there are specific harms that can arise from co- or cross-ownership and control. They differ on the extent to which they believe that these harms, and the possible remedies (contractual or compliance), can be understood and formulated in sufficient time for the first round of the new gTLDs.

The above notwithstanding, there is a general consensus on a number of points.

1. Regardless of the general registry/registrar regime, it is essential that there be mechanisms in place to ensure that cultural and IDN TLDs are not disadvantaged by the rules. Specifically, there is a fear that under some regimes, the requirement to use ICANN accredited registrars and to not self-distribute could jeopardize TLDs that will have a specific regional focus or those using less common scripts or languages. The lack of registrar interest or registrar capability could potentially impact the viability of just those new TLDs that we most want to succeed.

2. Regardless of the general registry/registrar regime, there should be viable ways for single registrant TLDs to operate effectively. In such a single registrant TLD, all 2nd level domains are used by the registry itself (or its corporate parent) and are not made available to outsiders. The registry controls, and is legally responsible for, all 2nd level domains. The largest projected use is for corporations where the TLD relates to a trademark, but it could also be used for not-for-profits, charities and NGOs. The specific issue is that if there is no demonstrable added value to registrar involvement (since there is no consumer and no

competitive issues), such intermediaries should not be required. The benefit to the gTLD eco-system of such gTLDs is that they will serve to acclimatize users to the concept of new gTLDs and will facilitate their acceptance in the general case.

3. Regardless of the general registry/registrar regime, compliance will be a critical part of gTLD deployment. It is essential that the rules surrounding the new gTLDs be sufficiently clear and reasonably enforceable; and that ICANN put in place mechanisms to ensure reasonable compliance. The enforcement mechanisms must be sufficiently public that third-party scrutiny and whistle-blowers can augment compliance.