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AL-ALAC-ST-0524-03-00-EN
ORIGINAL: English
DATE: 01 July 2024
STATUS: Ratified

AT-LARGE ADVISORY COMMITTEE (ALAC)
Comment on Policy Status Report: GNSO Policy & Implementation Working Group Recommendations

Executive Summary

ALAC and At-Large generally endorses and supports the Policy Status Report (PSR): GNSO Policy & Implementation Working Group Recommendations, finding it quite detailed and well-considered. Regarding the thus-far implemented recommended new processes, we agree that to date, they have proved to be practical enhancements to GNSO policy and implementation methodologies. Overall, the ALAC and At-Large believe that the relevant information and details regarding review of the five (5) recommended processes from the 2015 'Final Recommendations Report on Policy & Implementation' are included in the GDS's 'Policy & Implementation Policy Status Report.' resulting in both completeness and usefulness in the sectional analysis of:- the 'Objective/Intent' of each Recommended Process; its 'Use to Date'; any 'Observations on Effectiveness'; and 'Potential Issues for Further Consideration' for each. Further, it is observed by the ALAC and At-Large through our direct inclusion in the implemented processes, as well as our review of the PSR, that all the processes that have been implemented to date have proved useful and that we agree with the assessment of these processes in the PSR that *'...these processes have proved effective in supporting and enhancing GNSO Policy and Implementation efforts,...'* [1].

Of particular utility are the IRT processes, which the ALAC and At-Large have found to be cooperative, positive and valuable experiences that certainly have, along with adjunct use of the CPIF principles, provided for clarity in intent and opportunity for specific community input to the effective implementation of recommendations whilst ensuring that matters are neither litigated or that their original intent is not altered or obscured. We also endorse the pursuit of the listed potential Issues for consideration regarding IRTs as a follow-up to the PSR so that the issue of how to handle disagreements in an IRT, as well as what effects are observed with variable stakeholder representation balance or bias and if the piloted "open and representative" model being deployed in the current New gTLD Subsequent Procedures IRT has particular merit for future use.

Similarly, the ALAC and At-Large found, through its involvement in the Applicant Support GGP, that such processes were fit for purpose, effective, and efficient. While we endorse the use of this process in the future, we support the desirability for very specific scoping of what is in or out of scope, which we agree with the PSR would positively affect future GGP timelines.

The ALAC and At-Large also recognises the utility of the EPDP process, whereby specific steps standard in a PDP can be skipped, allowing for a degree of reduced timeline, providing scoping is effective; the leadership and membership of the WG are effective and efficient and utterly aware of their roles and responsibilities in the EPDP, as well as the mechanisms utilized in the conduct of the EPDP (such as meeting cadence and any use of Face-to-Face meetings etc.,) are fully considered. We also fully endorse the point made in the PSR regarding the need for the misconception regarding the term "Expedited" in EPDP, which is all to be commonly held in the ICANN Community, and so support the notion that *'... Future misconceptions could be remedied by promoting greater community awareness of the EPDP process and managing expectations around timescales.'* [2] and that future work on enhancements to EPDPs should be a specific review follow-up.

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[1] Policy & Implementation Policy Status Report
https://itp.cdn.icann.org/en/files/policy-update/policy-and-implementation-policy-status-report-16-05-2024-en.pdf
Page 3 Section 1.
[2] Policy & Implementation Policy Status Report
https://itp.cdn.icann.org/en/files/policy-update/policy-and-implementation-policy-status-report-16-05-2024-en.pdf
Page 9 Section 3.4.

Finally, regarding the GIP, the only recommendation from the 'Final Recommendations Report on Policy & Implementation' that has not been used to date, the ALAC and At-Large agree that, in the absence of any data to the contrary to show the utility of the GIP and recognising as noted in the PSR that other GNSO processes have been effectively substituted to meet the objective and intent, the GIP is likely to be no longer relevant and that the GIP manual can be replaced with the guidance developed and utilized in the GNSO Small Teams process for the development of non-binding advice to preserve wide community participation in and transparency of the work of such small teams.

Preamble

On 16 May 2024, the Public Comment proceeding opened for the [Policy Status Report: GNSO Policy & Implementation Working Group Recommendations](). On 30 May 2024, an At-Large workspace was created for their Public Comment submission. The At-Large Consolidated Policy Working Group (CPWG) decided it would be in the interest of end users to develop and submit an ALAC Public Comment Statement.

Ratification Record

On 20 June 2024, input was requested from Alan Greenberg, Hadia El Miniawi, Vanda Scartezini, Justine Chew, Yrjo Lansipuro, Satish Babu, Maureen Hilyard, Avri Doria, Cheryl Langdon-Orr, Greg Shatan, Steinar Grøtterød, Abdulkarim Oloyede, and Lutz Donnerhacke (making up a small team) to draft the initial comments for the ALAC statement, which was posted on the workspace for further discussion. On 26 June 2024, the small team reconvened to discuss final group inputs to the draft statement. On 26 June 2024, the draft comments were discussed during the CPWG call. The draft statement was subsequently circulated with the CPWG mailing list for a 24-hour comment period.

On 27 June 2024, the small team finalized the At-Large Public Comment Statement. The ALAC Co-Vice Chairs, Claire Craig and Justine Chew, requested that the ALAC ratify the Public Comment Statement before submission to the ICANN Public Comment feature.

On 01 July 2024, staff confirmed the online vote resulted in the ALAC endorsing the statement with 15 out of 15 votes in favor. 0 votes against, and 0 abstentions. Please note 100% of ALAC members participated in the poll. The ALAC members who participated in the poll are (alphabetical order by first name): Aziz Hilali, Bill Jouris, Bukola Oronti, Claire Craig, Eduardo Diaz, Joanna Kulesza, Jonathan Zuck, Justine Chew, Lilian Ivette De Luque, Marcelo Rodriguez, Pari Esfandiari, Raihanath Gbadamassi, Satish Babu, Shah Zahidur Rahman, and Tommi Karttaavi. You may view the results here: https://tally.icann.org/cgi/results?e=a0a015e2fcb.

ALAC and At-Large Community Understanding of the Purpose of this Public Comment

Members of the ALAC and At-Large Community were deeply engaged in the processes conducted as a result of a staff discussion paper published in Jan 2013 and finalized in June 2015 by the GNSO's 'Policy and Implementation Working Group', which was "... tasked to provide the GNSO Council with a set of recommendations on a number of questions that specifically related to policy and implementation in a GNSO context…."[3] leading to the report and recommendations that outlined the following processes, designed to aid and assist in Policy and Implementation options available to the GNSO:

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[3] Policy Status Report on the Policy & Implementation Recommendations
https://itp.cdn.icann.org/en/files/policy-update/policy-and-implementation-policy-status-report-16-05-2024-en.pdf
Page 4 Section 2.1

- The GNSO Expedited Policy Development Process (EPDP)

- The GNSO Guidance Process (GGP)

- The GNSO Input Process (GIP)

- The Implementation Review Team (IRT) Principles & Guidelines, as well as the requirement to form an IRT following the adoption by the ICANN Board of GNSO Policy recommendations

- The Consensus Policy Implementation Framework (CPIF)

ICANN Staff observations regarding the effectiveness of these processes (where implemented or deployed) are embodied in the draft 'Policy & Implementation Policy Status Report' (PSR) prepared by the Global Domains and Strategy (GDS) and Generic Names Support Organisation (GNSO) that have been published for this Public Comment, "...to assess whether the recommendations have achieved what they set out to do and/or whether any further enhancements or changes are needed".[4]

In response to the present call for public comments, the ALAC wishes to raise additional issues that warrant further consideration, as well as suggestions for how these issues could be addressed.

Expedited Policy Development Process (EPDP)

As noted in the 'Policy & Implementation Policy Status Report' *"...The main difference between a PDP and an EPDP is that the initial phases of a PDP (request for an Issue Report, publication of preliminary Issue Report for public comment, and submission of Final Issue Report) are not included in an EPDP. In addition, there are different voting thresholds associated with some of the steps in an EPDP compared to that of a PDP, for example, the initiation of an EPDP and adoption of a charter for an EPDP Team require a GNSO Supermajority"* and is to *"... be used in those instances in which the GNSO Council intends to develop recommendations that would result in new contractual obligations for contracted parties that meet the criteria for "consensus policies""* [5] with a specific aim of providing a mechanism that could be of a shorter time frame than the typical GNSO PDP, whilst ensuring that the existing *"... checks and balances would remain in place."* [6]

The PSR notes in section 3.4 'Potential Issues for Further Consideration' the misconception that "expedited" means a shorter overall process compared to a PDP and that *"... Future misconceptions could be remedied by promoting greater community awareness of the EPDP process and managing expectations around timescales."* The ALAC and At-Large certainly support this approach as well as the two (2) other identified and proposed opportunities for greater expediency in future EPDPs:

1. '...the elimination of the early input requirement.'

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[4] Policy Status Report on the Policy & Implementation Recommendations
https://itp.cdn.icann.org/en/files/policy-update/policy-and-implementation-policy-status-report-16-05-2024-en.pdf
Page 5 Section 2.1

[5] Policy Status Report on the Policy & Implementation Recommendations
https://itp.cdn.icann.org/en/files/policy-update/policy-and-implementation-policy-status-report-16-05-2024-en.pdf
Page 6 Section 3.1

[6] Policy Status Report on the Policy & Implementation Recommendations
https://itp.cdn.icann.org/en/files/policy-update/policy-and-implementation-policy-status-report-16-05-2024-en.pdf
Page 6 Section 3.1

2. Greater efficiencies in work practices and enhancements (examples provided in the PSR)[7]

The ALAC and At-Large community notes that the EPDP and other policy development tools were introduced after 2015 and were designed for flexibility compared to existing processes in the early 2010s. The ALAC and At-Large community discussed whether community checks on this process should return and whether the scope and charter of EPDPs should be tightened, mainly as some EPDPs are used to complete work that was not finished or out of scope for a preceding PDP.

The ALAC and At-Large community notes that there is a misconception that "expedited" in EPDP is perceived to mean that policy work will be conducted more quickly than in a traditional PDP. Instead, a few steps, including the composition of a preliminary issues report, are removed compared to a standard PDP. The ALAC and At-Large community believe more can be done to educate community participants about various policy development processes and their differences.

The ALAC and At-Large community supports incorporating "lessons learned" to improve future reports derived from these processes. The ALAC and At-Large community understands the importance of highlighting the discussions during EPDPs and noting divergent views during these discussions. However, the ALAC and At-Large community notes that a rule should be added stipulating that recommendations that do not reach consensus during the policy development process must not be recommended to the ICANN Board (i.e. it would be helpful to have a rule that prevents the GNSO Council from labeling something that did **not** achieve consensus as a recommendation). Such a rule should apply to all policy processes, not just the EPDP. Though there are areas for improvement, the ALAC and At-Large community are pleased with the use and outcomes of the EPDP.

The GNSO Guidance Process (GGP)

As defined in the PSR, the GGP has been used recently with the 'Applicant Support GGP.' While following EPDP steps, this process is not intended to result in a new consensus policy or contractual obligations for contracted parties. Specific guidance for this process states it is to be used by the GNSO Council *"... when a request for input relating to gTLDs (either a new issue or in relation to previous policy recommendations) has been received from the ICANN Board or a gTLD issue has been identified by the GNSO Council that would benefit from GNSO Guidance, and it has determined that the intended outcome of the GGP is not expected to create new "Consensus Policy" recommendations including, but not limited to, any new contractual obligations for contracted parties (in which case a PDP would need to be initiated). However, the GGP may provide interpretation or assist in providing clarity with regards to the implementation of GNSO policy recommendations."* [8]

The PSR noted that this initial GGP took considerably longer than GGPs were conceptualized to run for and that this in the future could be aided by *"... an improved method of defining the scope of the tasks of a future GGP could be useful. For example, the GGP initiation request could be changed to require the requestor to provide supplementary information beneath each of its tasks, or include a pre-set form with*

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[7] Policy Status Report on the Policy & Implementation Recommendations
https://itp.cdn.icann.org/en/files/policy-update/policy-and-implementation-policy-status-report-16-05-2024-en.pdf
Page 10 Section 3.4
[8] Final Recommendations Report on Policy and Implementation; Annex D Proposed GNSO Guidance Process Manual June 2015;
https://gnso.icann.org/sites/default/files/filefield_47703/policy-implementation-recommendations-01jun15-en.pdf
Page 50 Sec 1.

precise instructions in order to ensure such detail is captured at the beginning of the process."[9] The ALAC and At-Large support these proposals that seek greater detailed and specific information and guidance associated with the request for and implementation of GGPs. It is essential to identify what is to be considered in and out of scope, and if appropriately integrated, this would significantly improve the future use of GGPs. The ALAC and At-Large community view the GGP as a valuable tool for effective and efficient ICANN community-based, bottom-up guidance to be developed through a predictable and accountable GNSO process. For example, the ALAC and At-Large community found that the GGP helped craft outputs related to ASP, primarily to ensure that the program allows all qualified ASP applicants to receive an equal and equitable share of any support offered.

The ALAC and At-Large community have noted the difficulties and challenges experienced within the GGP in defining the most effective level of guidance. The ALAC and At-Large community noted challenges in defining and advising on "guidance" that ought not impose on implementation, (i.e. out of scope). The ALAC and At-Large community recognize that the GGP was intended to provide clarity and guidance regarding the implementation of GNSO policy recommendations by the GNSO Council and not to relitigate such GNSO policy recommendations. Although consensus was achieved at the At-Large level and within the GGP group on a particular guidance recommendation, ICANN org staff advised on the acceptability of such guidance suggestions, especially if it was considered "out of scope". Within the report that accompanied each task, staff did acknowledge any additional comments or recommendations from advisory committees. However, the GGP group was disappointed that, at times, the depreciation in the importance of these additional comments or recommendations was regrettable, as it resulted in lowered ambitions for the ASP as was originally intended in GNSO policy recommendations, leading to reduction of potential resources for applicants in need.

The ALAC and At-Large community hopes for greater appreciation, acceptance and incorporation of community views during a GGP and looks forward to the continued use of the GGP with more clarity on the expectations of the guidance from the outset.

The GNSO Input Process (GIP)

Whilst the GIP has not been used to date, the ALAC and At-Large community notes and agrees with the observation made in the PSR that *"... if one were to replace reference to "GIP team" with "small team" and review how small teams have operated to date, the results might be similar to what was anticipated by the WG.."*[10] The two (2) potential issues for further consideration raised in the PSR:

- Given that a GIP has yet to be initiated, and the Council has put into practice other mechanisms that seem to fulfill the same objective, is the GIP still relevant?

  - The ALAC and At-Large community believes the GIP is no longer relevant and should be retired.

- Should the GIP Manual be replaced by the guidance developed for small teams, or is there no need to formalize the process used by the Council to provide non-binding advice?

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[9] Policy & Implementation Policy Status Report
https://itp.cdn.icann.org/en/files/policy-update/policy-and-implementation-policy-status-report-16-05-2024-en.pdf
Page 14 Section 4.4
[10] Policy & Implementation Policy Status Report
https://itp.cdn.icann.org/en/files/policy-update/policy-and-implementation-policy-status-report-16-05-2024-en.pdf
Page 15 Section 5.3

○ Retiring the GIP would also necessitate dropping the GIP Manual. The ALAC and At-Large community notes that each recent Council small team has been "chartered" by way of an assignment form which guides the work of the small team and believe this approach has generally been successful, especially in its flexibility for also including participation from beyond GNSO councilors. The ALAC and At-Large community continue to believe that the deliberation of policy-related issues by a small team will undoubtedly benefit from wider ICANN community participation even if it is structured to provide non-binding advice. While the ALAC and At-Large community do not think formalization is necessarily needed, they believe that certain practices of small teams should be standardized - in support of transparency, the calls and the work of small teams should be recorded and kept available for community/public access, and observers should continue to be permitted to observe proceedings - and assessed in future reports.

The Implementation Review Team (IRT) Principles & Guidelines

As noted in the PSR, the general set of principles and guidelines developed for IRTs by the Policy & Implementation Working Group is utilized in concert with the Consensus Policy Implementation Framework (CPIF) to support and enhance *"... predictability, accountability, transparency, and efficiency in the implementation process, these materials set out how the implementation is expected to be handled. In addition, both the CPIF and the IRT Principles and Guidelines include the objective of confirming and clarifying various ICANN org roles and responsibilities, as well as those of the community during the implementation phase."* ALAC and At-Large have been involved and actively engaged in many of the IRTs completed and ongoing since the publication of the Policy & Implementation Working Group Final Report and, as such, have found the overall experiences both positive and invaluable.

The ALAC and At-Large community endorses the continued use of IRTs and finds IRTs to be an incredibly important accountability structure. IRTs highlight a crucial working relationship between the community and ICANN org to achieve the common goal of implementing Board-accepted policy recommendations as intended by the group which developed them. The ALAC and At-Large community appreciates that IRTs allow ICANN org staff and the community to collaborate as peers to ensure policy implementation is conducted correctly. The ALAC and At-Large community recognizes that implementation remains the responsibility of ICANN org staff but appreciates the reception of community input in this process, especially in the more recent IRTs.

The ALAC and At-Large community also discussed how elements of the IRT would be beneficial in other policy development processes and appreciates that the GNSO Council is continuing to look for ways to ensure policy recommendations are Board-ready. The inclusion of Board and ICANN org liaisons during a policy development process certainly allows for closer collaboration and early input on the Board's receptiveness and feasibility of implementation by ICANN org, of policies as they are developed, as evidenced by the recent EPDP on IDNs.

The Consensus Policy Implementation Framework (CPIF)

The ALAC and At-Large community support the continued use of the CPIF. They recognize that the CPIF and the overall implementation of policy recommendations have evolved and appreciate that the principles of the CPIF are still applicable. The ALAC and At-Large community believe that the CPIF continues to be a predictable and complementary tool to the policy development and implementation process.

Concluding Remarks

The At-Large Advisory Committee (ALAC) appreciates the opportunity to provide our input to the Public Comment on the **'Policy Status Report: GNSO Policy & Implementation Working Group Recommendations'**, which is of significant interest to end-users in as much as the effectiveness and efficiencies relating to Policy and non Policy processes in the GNSO affect them; as well as in how such processes influence and affect various performance aspects and outcomes of ALAC and At-Large's efforts contributing to these procedures.