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AT-LARGE ADVISORY COMMITTEE

ALAC Statement on Proposed gTLD-Registration Data Access Protocol (RDAP) Profile

Introduction

Alan Greenberg, At-Large Advisory Committee (ALAC) Chair, Joanna Kulesza, ALAC NomCom Representative for the European Region, and Jonathan Zuck, North American Regional At-Large Organization (NARALO) Member, developed an initial draft of the statement on behalf of the ALAC after several discussions during weekly At-Large Consolidated Policy Working Group (CPWG) calls.

On 12 October 2018, the first draft of the statement was posted on its [At-Large workspace](#). On the same day, ICANN policy staff in support of the At-Large community sent a call for comments on the statement to the At-Large community via the ALAC work mailing list.

On 13 October 2018, the ALAC Chair submitted comment, and requested that staff open an ALAC ratification vote.

In the interest of time, the ALAC Chair requested that the statement be transmitted to the ICANN public comment process, copying the ICANN staff member responsible for this topic, with a note that the statement is pending ALAC ratification.

On 19 October 2018, Staff confirmed that the online vote results in the ALAC endorsing the statement with 13 votes in favor, 0 votes against, and 0 abstention. Please note that 86% (13) of the 15 ALAC Members participated in the poll. The ALAC Members who participated in the poll are (alphabetical order by first name): Alan Greenberg, Alberto Soto, Andrei Kolesnikov, Bartlett Morgan, Bastiaan Goslings, Hadia Elminiawi, Javier Rua-Jovet, John Laprise, Kaili Kan, Maureen Hilyard, Ricardo Holmquist, Seun Ojedeji and Tijani Ben Jemaa. Please note 2 ALAC Members, Holly Raiche and Sebastien Bachollet, did not vote. Please note one vote was added manually. You may view the result independently under: <https://www.bigpulse.com/pollresults?code=1335971VvnXqF2ipBnJEiAgDKiQ>.

On 24 October 2018 during ICANN63, the ALAC Chair called for consensus to the statement. All 15 ALAC Members present unanimously ratified the statement (100% participation), including Holly Raiche and Sebastien Bachollet.

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The At-Large Advisory Committee (ALAC) recommends that ICANN adopt the Registration Data Access Protocol (RDAP) quickly and effectively because it is an essential step for ICANN to deploy a tiered-access model adequately. RDAP implementation, in turn, puts ICANN in a better position to be more compliant with the European Union's General Data Protection Regulation by ameliorating the relevant deficiencies to the contemporary WHOIS model. As the community is aware, the current WHOIS seven-bit ASCII system cannot hold international registration information (e.g., name or address) and that, in turn, leaves the entire DNS community, including end-users, vulnerable to various online threats. RDAP is a solution ICANN has long had to resolve these issues and the At-Large implores its wide adoption expeditiously to resolve these matters.

Additionally, the ALAC appreciates the RDAP's revised structure that intends to distinguish the policy-independent elements and policy-dependent elements. Assuming the RDAP Profile appropriately defines such distinctions, this will ensure that ICANN removes the technical implementations of the RDAP from political considerations and debate, and, as a result, not bog down its adoption.

In its current form, the RDAP appears to emulate some of the ambiguities that exist within key provisions of the European Union's (EU) General Data Protection Regulation (GDPR), and it would behoove ICANN to address these concerns as it moves through RDAP's implementation. Examples of such ambiguities are:

- What constitutes a "legitimate purpose" as it is articulated in Para. 4.4, particularly as it relates to the notion of "accurate reliable and uniform (...) based on legitimate interests not outweigh by (...) fundamental rights";
- the framework to address appropriate law enforcement needs under Para. 4.4.9;
- handling contractual compliance monitoring requests under para. 4.4.13;
- provisions in Annex A para. 4 that requests operators to "provide reasonable access to [data] to third parties on the basis of legitimate interests pursued by that party, except where such interest is overridden by the interests of fundamental rights and freedoms...pursuant to Article 6(1)(f) GDPR"; and
- requirements in Appendix C, particularly ones related to outlining obligations for data registrars operating in the EU.

The ALAC appreciates the opportunity to comment on this important matter.