Draft Responses to New gTLD SubPro Initial Report for:

- 2.2.1: Continuing Subsequent Procedures (PR 2.2.1.c.1)
- 2.2.2: Predictability & 2.2.2.2 Clarity of Application Process
- 2.2.3: Applications Assessed in Rounds
- 2.8.1: Objections

Compiled by Justine Chew, for CPWG 12-09-2018 Call

2.2.1: Continuing Subsequent Procedures

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.2.1: Continuing Subsequent Procedures (full WG)	
PR 2.2.1.c.1 The Working Group recommends no changes to the existing policy calling for subsequent application rounds introduced in an ongoing, orderly, timely and predictable manner.	A majority view in At-Large supports this recommendation. The rationale for this view, along with a minority view, is presented in *Section 2.2.3 Applications Assessed in Rounds*.

2.2.2: Predictability
& 2.2.2.2 Clarity of Application Process

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.2.2: Predictability (full WG)	
Q 2.2.2.e.1 Does the concept of a Predictability Framework make sense to address issues raised post-launch?	Yes, At-Large is of the opinion that a Predictability Framework along the lines contemplated by the WG makes sense to provide guidance and predictability in addressing issues raised post-launch. Further, At-Large supports the concept a Standing Implementation Review Team (IRT) being constituted after the publication of the Applicant Guidebook to consider changes in the implementation, execution and/or operations of the new gTLD program after its launch, and the introduction of any further evaluation guidelines not available to applicants when applications were submitted. In particular, At-Large believes a Standing IRT is required to support and advise ICANN staff on the day-to-day tasks in implementing the new gTLD program.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.2.2: Predictability (full WG)	
Q 2.2.2.e.2 How should launch be defined? Ideas considered by the WG include Board adoption of the new Applicant Guidebook or the first day in which applications are accepted.	At-Large opines that "Launch" should be defined as the day on which the next round is actually opened for accepting applications. This At-Large opinion is based on the following: • If the WG's Phase 3 – Operations / Administration (see the Initial Report pg 18) were to be established, then it is important to specify the actual date when the role or work of the Standing IRT commences; • Such date referred to above should be slated for after all the other policy-specific processes have been completed, including Board approval of the AGB, in order to avoid overlap or confusion on allocation of responsibilities due to timing uncertainty; • To allow for some lead time between the constitution of the Standing IRT and launch of the next round unless the constitution is completed well before the date the Board approves the AGB for the next round; • At-Large also notes that details of a Standing IRT remains to be agreed upon.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.2.2: Predictability (full WG)	
Q 2.2.2.e.3 A component of the Predictability Framework includes the identification or criteria to determine whether an issue can be handled through existing mechanisms or whether it can/should be handled by a Standing IRT. What are potential criteria that can be applied to help distinguish between types of issues and resolution mechanism?	At-Large notes that the Standing IRT will only be charged to deal with post-launch operational / administration issues, so, supplementing the WG's recorded deliberations in *Section 2.2.2 Predictability*, At-Large's list of potential criteria of post-launch issues for resolution by the Standing IRT would include:- • Whether an issues is a one-off occurrence; • How urgent is action/decision needed to resolve an issue or how badly does a lacuna need to be filled; • Who (or the number of parties) would be affected by a recommendation or decision of the Standing IRT, including material levels; • Whether the implementation of a recommendation or decision can be easily reversed (a remote consideration). The WG is also urged to revisit the recommendations of the Policy and Implementation Working Group mentioned in the Initial Report on pg 25.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.2.2: Predictability (full WG)	
Q 2.2.2.e.4 Do you have thoughts on the open questions/details related to the Standing IRT panel discussed in section (f) below? Is there a different structure, process, or body (possibly already existing) that might help provide needed predictability in addressing issues raised post-launch?	Perhaps the only existing structure that could take on the duties of the Standing IRT is the IRT for Subsequent Procedures although At-Large notes that the mandate and role of the IRT for Subsequent Procedures has been limited to reviewing the implementation aspects of the Program after a round is closed.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.2.2: Predictability (full WG)	
Q 2.2.2.e.5 How do you see the proposed Predictability Framework interacting with the existing GNSO procedures known as the GNSO Input Process, GNSO Guidance Process, and GNSO Expedited PDP?	The Phase 3 Predictability Framework mandate of a Standing IRT is limited in scope and time (as are the existing GNSO procedures) so if conducted well, should not lead to unintended overlaps. Therefore, we see the Standing IRT's role raising any issues of policy-implementation conflict to the GNSO Council for further action as complementary, rather than disruptive, to existing GNSO procedures. A Standing IRT, because of its mandated constitution with a Program launch (and 'standing' status) as well as scope, is likely to be able to react more promptly to consider, filter and address issues as appropriate based on its charter/role. As an example, we see that even with a GNSO Expedited PDP, time for getting up may result in impact due to process delay. In any case, At-Large, in general, welcomes a public comment process, although the pertinent question is "Should operational changes be subject to public comment?" -- noting that all fundamental / possible policy impact changes must always go through a GNSO procedure.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.2.2.2 Clarity of Application Process (WT1)	
PR 2.2.2.2.c.1 When substantive/disruptive changes to the Applicant Guidebook or application processing are necessary and made through the Predictability Framework discussed above, there should be a mechanism that allows impacted applicants the opportunity to either (a) request an appropriate refund or (b) be tracked into a parallel process that deals with the discrete issues directly without impacting the rest of the program.	Yes. ICANN Org must exercise greater transparency vis a vis impacted applicants by notifying them of material changes to the application process and to inform them clearly of the consequences and their options/rights resulting from those changes.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.2.2.2 Clarity of Application Process (WT1)	
Q 2.2.2.2.e.1 Is ICANN organization capable of scaling to handle application volume and, if not, what would have to happen in order for ICANN organization to scale?	At-Large believes that ICANN Org needs to conduct a study regarding its scalability to handle the likely higher influx of applications for new gTLDs.

2.2.3: Applications Assessed in Rounds

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.2.3: Applications Assessed in Rounds (full WG)	
PR 2.2.3 The Working Group recommends that the next introduction of new gTLDs shall be in the form of a "round." With respect to subsequent introductions of the new gTLDs, although the Working Group does not have any consensus on a specific proposal, it does generally believe that it should be known prior to the launch of the next round either (a) the date in which the next introduction of new gTLDs will take place or (b) the specific set of criteria and/or events that must occur prior to the opening up of the subsequent process. For the purposes of providing an example, prior to the launch of the next round of new gTLDs, ICANN could state something like, "The subsequent introduction of new gTLDs after this round will occur on January 1, 2023 or nine months following the date in which 50% of the applications from the last round have completed Initial Evaluation."	A majority view in At-Large supports this recommendation that the next introduction of new gTLDS be in the form a "round", while a minority view within At-Large believes that "rounds" are unnecessary. Within the majority view, opinions differ on the number of "rounds" that ought to be conducted in moving the Program forward. Some believe that the Program should proceed via 2 or 3 "rounds" then move to a first-come, first-served (FCFS) process whilst others believe "rounds" should be a perpetual feature underpinning the Program. Some views also qualified that applications could be conducted on a first-come, first-served process but all applications must continue to be batched for assessment to allow for not only fair competition in string selection but also to facilitate manageable review procedures by various stakeholders (from Initial Evaluation to public comment, GAC Advice / GAC Early Warning, objections) and resolution procedures for contention sets and Community Priority Evaluation (CPE)). However, there is full consensus in At-Large around the need for the following regardless of whether re-introduction of the Program is done via a "round", "rounds" or on a FCFS basis: • That the AGB accurately and comprehensively reflects the policies and procedures to be relied upon by all parties --- ICANN Org, applicants, evaluators, objectors, Dispute Resolution Service Providers (DRSPs) etc, and where separate procedures are to apply, such procedures must be made known in advance to all parties concerned, especially on applicable fees, and the applicability of criteria for evaluation; • That there be a mechanism to allow for course corrections mandated by policy development processes to make substantial, policy-driven changes to the Program (a seamless mechanism in the case of the first-come, first-served process but where changes made would only apply to applications submitted post changes); • That community-based applications (or applications for community TLDs) be prioritized in the first instance (or the next one or more "rounds"); • That the CPE procedure, in particular, be rigorously reviewed; • That there be greater transparency in ICANN Org's selection of DSRPs; • That outreach efforts be undertaken to better create awareness of not only the Program but also parallel programs such as the Applicant Support Program (ASP).

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.2.3: Applications Assessed in Rounds (full WG)	
Q 2.2.3.e.1 Of the models described above, which model do you believe should be employed, if any? Please explain.	See response to PR 2.2.3 above
Q 2.2.3.e.2 For the model you have selected, what are some mechanisms that can be employed to mitigate any of the listed (or unlisted) downsides.	Input pending

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.2.3: Applications Assessed in Rounds (full WG)	
Q 2.2.3.e.3 Is there a way to assess the demand for new gTLDs to help us determine whether the subsequent new gTLD process should be a "round" or a "first-come first-served process? (e.g. Do we introduce an Expressions of Interest process?)	At-Large opines that Expressions of Interest process normally only yields useful insight for mature, well-educated markets and hence, may be a good way to assess demand for new gTLDs in future. Further, the resources required for an Expressions of Interest process may, in the first instance, be better applied to rectify several identified deficiencies of the Program, namely, promoting greater awareness of the Program in regions where numbers of applications from the 2012 round were comparatively very low (eg Global South), using appropriate means and channels. Ideally, improving clarity in application process and access to as well as breadth of the Applicant Support Program (ASP) should precede any market outreach efforts in order to help establish a more genuine assessment of demand. Perhaps a simpler form of Expressions of Interest such as simple market surveys which can be used at the ICANN roadshows and other outreach efforts could be the basis to gauge demand for new gTLDs in the next round. Such surveys ought to incorporate questions targeted at establishing on the one hand, awareness of key aspects of the Program, and on the other hand, basic expectations of potential applicants.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.2.3: Applications Assessed in Rounds (full WG)	
Q 2.2.3.e.4 If we were to have a process where a certain date was announced for the next subsequent procedure, what would be the threshold for the community to override that certain date (i.e., Is a different process needed if the number of applications exceeds a certain threshold in a given period of time?)	At-Large finds in principle the idea of overriding an announced date to be undesirable. However, in the event ICANN Org has not been able to account for the unexpected, then if at all, and only on an as-needed basis, thresholds triggering an override would be limited to: • Where the actual number of applications exceeded the expected number (for a round) which would then negatively impact on resources assigned based on the expected number (eg availability of ICANN staff resources, evaluation panels etc), or • If the anticipated number of new gTLD delegations exceed the number which SSAC considers as the tipping point to maintaining the stability, security and resiliency of the DNS and root zone system.

2.8.1: Objections

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3)	
PR 2.8.1.c.1 A transparent process for ensuring that panelists, evaluators, and Independent Objectors are free from conflicts of interest must be developed as a supplement to the existing Code of Conduct Guidelines for Panelists and Conflict of Interest Guidelines for Panelists.	At-Large supports this preliminary recommendation. While it can be accepted that panelists, evaluators and Independent Objectors are expected to conduct themselves without bias in every objection/proceeding and to recuse themselves when conflicts of interest arise, there always remains a level of subjectivity in determining whether a conflict of interest arises as well as who should decide this question. Therefore in the interest of all concerned parties, a transparent process ought to be developed to supplement the existing Code of Conduct Guidelines for Panelists and Conflict of Interest Guidelines for Panelists, aimed at facilitating the opportunity to examine the positions of panelists, evaluators and Independent Objectors not only vis a vis applicants but also amongst themselves and other objectors to minimise the risk of objections being filed / proceedings being conducted under a potential shroud of conflicting interests as against panelists, evaluators and/or Independent Objectors.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3)	
PR 2.8.1.c.2 For all types of objections, the parties to a proceeding should be given the opportunity to agree upon a single panelist or a three-person panel - bearing the costs accordingly.	At-Large holds a neutral stance on this preliminary recommendation on the proviso that parties are made aware of and are prepared to accept the impact on timeline and costs to them. However, more importantly, At-Large believes utmost attention must be given to (1) making overall cost of filing and seeing through objections much more affordable to communities and non-profit organisation objectors, and (2) disallow a wealthier party to a proceeding from dictating terms to insist on a 3-person panel and prejudice the challenge of its less wealthy opponent.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3)	
PR 2.8.1.c.3 ICANN must publish, for each type of objection, all supplemental rules as well as all criteria to be used by panelists for the filing of, response to, and evaluation of each objection. Such guidance for decision making by panelists must be more detailed than what was available prior to the 2012 round.	At-Large supports this preliminary recommendation and goes further to state that guidance for panelists should be substantial insofar as decisions pertaining to definitions of "community" and "public interest", allegations of conflict of interest on the part of objectors (especially the Independent Objector), and whether to apply an examination of the purpose and use of an applied-for string as opposed to just the term itself are concerned. This is needed to limit the risk of the divergent views, even values, of different panelists on different panels issuing diverging determinations (or even in conflict with the goals stated in ICANN's Bylaws or GNSO consensus policy).

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3)	
PR 2.8.1.c.4 Extension of the "quick look" mechanism, which currently applies to only the Limited Public Interest Objection, to all objection types. The "quick look" is designed to identify and eliminate frivolous and/or abusive objections.	At-Large understands that the current discriminating use of "quick look" mechanism solely on Limited Public Interest objections presupposes that only Limited Public Interest objections would attract frivolous filings since only Limited Public Interest objection allows an inclusive standing base, (ie only Limited Public Interest objections are open to anyone to file). However, in principle, At-Large opines it would be appropriate to apply consistency in the treatment of all types of objections. There is criterion in the "quick look" mechanism which could be useful to weed out abusive objections for eg. if an objection appears to attack an applicant without (seemingly) valid reason rather than the applied-for string. On a practical level, can and should all the same criteria used in the "quick look" mechanism be applied to all types of objections?

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3)	
PR 2.8.1.c.5 Provide applicants with the opportunity to amend an application or add Public Interest Commitments in response to concerns raised in an objection.	Please see our response to Q. 2.8.1.e.15

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3)	
Option 2.8.1.d.1 GAC Advice must include clearly articulated rationale, including the national or international law upon which it is based.	At-Large supports this option, and opines that such rationale articulated could include that of accepted national or international policy.
Option 2.8.1.d.2 Future GAC Advice, and Board action thereupon, for categories of gTLDs should be issued prior to the finalization of the next Applicant Guidebook. Any GAC Advice issued after the application period has begun must apply to individual strings only, based on the merits and details of the application, not on groups or classes of applications.	Yes, At-Large believes this to be fair.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3)	
Option 2.8.1.d.3 Individual governments should not be allowed to use the GAC Advice mechanism absent full consensus support by the GAC. The objecting government should instead file a string objection utilizing the existing ICANN procedures (Community Objections/String Confusion Objections/Legal Rights Objections/Limited Public Interest Objections).	At-Large opines that in principle, the GAC Advice mechanism should be left to GAC to manage. However, At-Large also opines that where an individual government expresses its opposition to an applied-for string and that does not receive the consensus support of GAC (whether full or otherwise) then ideally no GAC Advice should be issued and that government should proceed to file an objection in its own name if it wish to pursue said opposition to the applied-for string.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3)	
Option 2.8.1.d.4 The application process should define a specific time period during which GAC Early Warnings can be issued and require that the government(s) issuing such warning(s) include both a written rationale/basis and specific action requested of the applicant. The applicant should have an opportunity to engage in direct dialogue in response to such warning and amend the application during a specified time period. Another option might be the inclusion of Public Interest Commitments (PICs) to address any outstanding concerns about the application.	Yes, At-Large supports the call for specific time period for issuance of GAC Early Warnings and for the inclusion of both a written rationale/basis and specific action requested of the applicant.

PDP Working Group Preliminary Recommendation (PR) / Question (Q)	ALAC Response
2.8.1: Objections (WT3) – Role of GAC Advice	
Q 2.8.1.e.1 Some have stated that Section 3.1 of the Applicant Guidebook creates a "veto right" for the GAC to any new gTLD application or string. Is there any validity to this statement? Please explain.	At-Large believes there is no validity to the statement or notion that Section 3.1 of the AGB creates a "veto right" for the GAC to oppose any new gTLD application or string, on the following bases: • While it may be misleading that the GAC Advice procedure is provided for under AGB Module 3 Objection Procedure, a GAC Advice in fact does not equate to an objection. It is, and as the name suggests, an "advice" which is structured to draw attention to an application which is seemingly problematic, eg one that potentially violates national law or raises sensitivities and which, if and when issued, is directed to the ICANN Board of Directors. • Although a GAC Advice may take a number of forms (depending on whether there is consensus of the GAC or not) which ranges between at the one extreme, an advice that an application should not proceed at all because of certain concerns, to the other end, one which that an application should not proceed unless concerns are remediated, ultimately it is the Board that decides whether or not to take on board such advice with respect to any intervention the Board sees fit to make (if any). • Any GAC Advice that is received by the Board on an application for a new gTLD string is published and the applicant concerned has the opportunity to submit a response to the Board. If it were a "veto right" there would not be such an opportunity. • Similarly a GAC Early Warning to the applicant concerned merely alerts that applicant to the concerns which GAC holds, limited to potential violation of national laws or international agreements, or allegedly raises sensitivities, or touches on public policy issues. • Neither a GAC Advice nor a GAC Early Warning suspends an application. An application is only suspended if an objection is filed. It should be added that the GAC is the best placed stakeholder group to provide advice on application which bear potential conflicts with national law or international agreements or which touches on national sensitivities.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3) – Role of GAC Advice	
Q 2.8.1.e.2 Given the changes to the ICANN Bylaws with respect to the Board's consideration of GAC Advice, is it still necessary to maintain the presumption that if the GAC provides Advice against a string (or an application) that such string or application should not proceed?	At-Large's position is that the Board should consider GAC Advice but is not obligated to accept it, as stipulated in sections 12.2(a)(x) and (xi) of the ICANN Bylaws (Feb 2016). The Board is expected to provide reasons why it declines to follow GAC Advice, therefore it must have considered the advice in order to do so. As such, while the presumption referred to Section 3.1 of the AGB is strictly unnecessary, it may remain to provide an 'layman' indication on the 'severity' of the GAC's concern (by way consensus level) but should in no way prejudice the Board's view and consideration of the advice. In this respect, At-Large would welcome an attempt at softening of this "presumption".

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3) – Role of GAC Advice	
Q 2.8.1.e.3 Does the presumption that a "string will not proceed" limit ICANN's ability to facilitate a solution that both accepts GAC Advice but also allows for the delegation of a string if the underlying concerns that gave rise to the objection were addressed? Does that presumption unfairly prejudice other legitimate interests?	At-Large takes the view that this question is awkwardly phrased as there is, in fact, no presumption that a "string will not proceed", since it is for the ICANN Board of Directors to decide whether it wishes to accept a GAC Advice on an application or not. The AGB in section 3.1 speaks of "a presumption that an application SHOULD not proceed" not that it will not proceed. In any case, At-Large would welcome an attempt at softening of any presumption that "a string should not proceed".

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3) – Role of the Independent Objector	
Q 2.8.1.e.4 In the 2012 round, all funding for the Independent Objector came from ICANN. Should this continue to be the case? Should there be a limit to the number of objections filed by the Independent Objector?	Given that the Independent Objector is selected and appointed by ICANN with a clear mandate, At-Large believes ICANN should continue to provide all funding for the IO in the next round. At-Large also believes in principle that there should not be a limit to the number of objections filed by the IO. In respect of the 2012 round, the IO filed 24 objections and funding for the IO ((a) salaries and operating expenses) and for these objections ((b) DRP costs) did not present an issue. However, budgetary constraints could arise in the next round if the number of new gTLD applications submitted were to exceed manifold the 1,930 completed applications received in 2012. Even so, given the IO's specific role in safeguarding the interest of public who use the global Internet, it would be important to continue to provide all funding for this role in the next round.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3) – Role of the Independent Objector	
Q 2.8.1.e.5 In the 2012 round, the IO was permitted to file an objection to an application where an objection had already been filed on the same ground only in extraordinary circumstances. Should this extraordinary circumstances exception remain? If so, why and what constitutes extraordinary circumstances?	Yes, At-Large believes this extraordinary circumstances exception should remain because the IO has the obligation to act independently and only in the best interests of the public who use the global Internet. The fact that the IO is granted automatic standing to file objections on either Limited Public Interest or Community underlines the importance of this role. His/her ability to carry out his/her specific mandate should be constrained with as few obstacles as possible. The extraordinary circumstances exception provides an acceptable means of flexibility for the IO to file an objection to an application where another objection had already been filed on the same ground. What constitutes extraordinary circumstances? It is likely impossible to exhaustively list these, but a couple which could feasibly arise are: • Where the reasons for which the IO files his/her objection differ substantially to those raised by the other objector. This would also mean the nature of bases raised by the IO and the other objector would likely not coincide. • Where the IO's bases for his/her objection are prima facie wider or more far-reaching in scope/impact than those raised by the other objector. • See also our response to Q 2.8.1.e.6. Not forgetting that because the IO is obliged to act independently, it would be difficult for him/her to 'collaborate' with any other party (non-agents) in bringing the objection.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3) – Role of the Independent Objector	
Q 2.8.1.e.6 Should the Independent Objector be limited to only filing objections based on the two grounds enumerated in the Applicant Guidebook?	At-Large notes that the IO may file objections only on Limited Public Interest or Community grounds per AGB section 3.2.5 At-Large thinks it is worth considering lifting the 2-ground limit on the IO's ability to file objections. (Should ALAC have the same leeway?) Consider the situation underpinning a String Confusion objection - an existing TLD operator or none of the other applicants mistakenly declining to assert a string confusion objection between an applied-for gTLD string and an existing delegated gTLD string or another applied-for gTLD string, as the case may be, preceded by a possible conflict that was not identified during the Initial Evaluation. All with the proviso that there is at least one comment in opposition to the relevant applied-for string made in the public sphere. What would have led to a contention set leading to proper procedures for resolution could pass evaluation and be delegated. The situation could well conclude differently if the IO were allowed to file a String Confusion objection citing reasons focusing on string confusion which may prejudice the interests of one or more communities or the global public who use the Internet, one that the IO deems to be 'highly objectionable', rather than be forced to rely purely on the basis for a Community objection. We do not, however, see any like situation for a Legal Rights objection.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3) – Role of the Independent Objector	
Q 2.8.1.e.7 In the 2012 round, there was only one Independent Objector appointed by ICANN. For future rounds, should there be additional Independent Objectors appointed? If so, how would such Independent Objectors divide up their work? Should it be by various subject matter experts?	At-Large feels there is no strong need for additional IOs to be appointed, taking into consideration four overarching factors: • There is no clear evidence of an anticipated major increase in new gTLD applications in the next round; • The possibility of a conflict of interest on the part of the appointed single IO which would either lead him/her to not file an objection which he/she would have otherwise had no qualms in filing, or one which would allow an applicant to easily challenge the validity of the IO's objection, with such risk being remote and manageable through the selection of the best IO candidate available; • Unless the constraint is removed, the IO is still not permitted to object to an application unless there is at least one (publicly available) comment opposing that application; and • Concerns over budgetary burden in funding the salaries and operating expenses of additional IOs.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
Q 2.8.1.e.8 Some members of the ICANN community believe that some objections were filed with the specific intent to delay the processing of applications for a particular string. Do you believe that this was the case? If so, please provide specific details and what you believe can be done to address this issue.	Is anyone aware of such incidence?

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3) – General Questions	
Q 2.8.1.e.9 How can the "quick look" mechanism be improved to eliminate frivolous objections?	At-Large suggests that analysis of the 2012 round objections which were found to be frivolous be undertaken to establish commonly identifiable traits and add those criteria to the "quick look" mechanism if not already present.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3) – General Questions	
Q 2.8.1.e.10 ICANN agreed to fund any objections filed by the ALAC in the 2012 round. Should this continue to be the case moving forward? Please explain. If this does continue, should any limits be placed on such funding, and if so what limits? Should ICANN continue to fund the ALAC or any party to file objections on behalf of others?	Yes, At-Large believes strongly that ICANN should continue to fund all objections filed by ALAC in the future rounds. As ICANN's primary organisational constituency for the voice and concerns of the individual Internet user, ALAC bears a responsibility as an established institution to pursue Community objections against applications for new gTLDs which it believes does not benefit individual Internet end users as a whole and meets the four tests prescribed for a Community objection per AGB section 3.5.4. The existing limits or conditions placed on funding for ALAC objection filing and Dispute Resolution Procedure (DRP) costs already form an arduous "stress test" to not only establish the validity of a contemplated Community objection, but also support for it within At-Large.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3) – General Questions	
Q 2.8.1.e.11 Should applicants have the opportunity to take remediation measures in response to objections about the application under certain circumstances? If so, under what circumstances? Should this apply to all types of objections or only certain types?	At-Large holds the view that if such opportunity were to be given at all, then it is preferable that crystal clear criteria be agreed on by the ICANN Community and in place before launch of the next round in respect of what circumstances would permit what remediation measures to be taken in response to which objections. Assuming that this proposal were to be taken up and a constituted Standing IRT were to be given the task of deciding which applicant is awarded such an opportunity then the following (non-exhaustive) factors are important to influence a determination: • Principle of fairness • The extent to which an application is capable of being amended to address the concerns/opposition tabled in an objection • The extent to which such an application is substantially amended to address the concerns/opposition tabled in an objection • How does an amendment, if allowed, impact other application(s)? This goes to the question of prejudice. • How would consistency in considering and determining such opportunities be achieved? • Would there be an appeals mechanism for either applicant or objector to challenge a determination?

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3) – General Questions	
Q 2.8.1.e.12 Who should be responsible for administering a transparent process for ensuring that panelists, evaluators, and independent objectors are free from conflicts of interest?	I asked for this question to be included in the Initial Report. Does anyone have input in response?

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3) – Community Objections	
Q 2.8.1.e.13 In 2012, some applicants for community TLDs were also objectors to other applications by other parties for the same strings. Should the same entity be allowed to apply for a TLD as community and also file a Community Objection for the same string? If so, why? If not, why not?	At-Large notes that the current AGB does not provide for restrictions or conditions in respect of designation of an application for gTLDs as a community gTLD. Designation of an application as community-based is entirely at the discretion of the applicant. Further, while there are no restrictions as to who can file of a Community Objection, there are standing requirements for any person/entity to be met in order for a Community Objection to have a chance of succeeding. So even if there might be a self-serving reason for a community-based gTLD applicant to file a Community Objection against the applications by other parties for the same string, there is no justification for prohibiting the same. Such an objection would have to undergo consideration at two levels -- assuming an applicant for a community-based gTLD is able to demonstrate how it satisfies the standing requirements (1st level), then its objection will still need to be considered on its merits (2nd level). Hence, no bias (perceived or otherwise) which would justify the denial of an ability for a community-based gTLD applicant to file a Community Objection in respect of applications by others for the same applied-for string. TBC ….

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3) – Community Objections	
Q 2.8.1.e.13 In 2012, some applicants for community TLDs were also objectors to other applications by other parties for the same strings. Should the same entity be allowed to apply for a TLD as community and also file a Community Objection for the same string? If so, why? If not, why not?	*Continued from previous slide* However, At-Large wishes to take this opportunity to clarify a possible bias in another scenario A problem could arise from a non-consistent stance taken by different DRSPs in defining "community". At-Large understands that a community-based gTLD applicant whose applied-for string is applied for by others may also have the option to file a String Contention Objection. So even if that applicant is able to "have two bites at the cherry" assuming they were able to pay for each objection they choose to file, but because different types of objections go to different DRSPs for resolution, we are concerned with the situation where a community-based gTLD applicant were to file two different types of objections resulting in diverging determinations based on different definitions of "community" adopted by each DRSP. On this basis, and unless the evaluation of criteria for "community" can be harmonized across all DRSPs, At-Large suggests that it be stipulated that a community-based gTLD applicant may one file a Community Objection OR a String Contention Objection.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3) – Community Objections	
Q 2.8.1.e.14 Many Work Track members and commenters believe that the costs involved in filing Community Objections were unpredictable and too high. What can be done to lower the fees and make them more predictable while at the same time ensuring that the evaluations are both fair and comprehensive?	Yes, At-Large agrees with this statement. At-Large understands the delicate balance between keeping objections processes affordable and the need for reliance on reputable DRSPs. Our suggestions to reconcile this balance include the following: • ICANN could play greater role in facilitating a "meeting of minds" between applicants and objectors in a way that Community Objections go forward to the designated DRSP as the resolution mechanism of last resort. Reasonable time should be given for this facilitation and discussion between the parties for resolve concerns. • Mandate clear advance notice to parties in objection resolution proceeding if costs varies. The appointed DRSP should be held to account by ICANN for why the cost for filing Community Objections varied upwards from originally quoted. Greater transparency on the part of the appointed DRSP needed. • Allow for greater flexibility in consolidating Community Objections filed against the same string using pre-agreed criteria, including collaboration with the Independent Objector without compromising his/her independence.

PDP Working Group Preliminary Recommendation (PR) / Question (Q) / Option	ALAC Response
2.8.1: Objections (WT3) – Community Objections	
Q 2.8.1.e.15 In the Work Track, there was a proposal to allow those filing a Community Objection to specify Public Interest Commitments (PICs) they want to apply to the string. If the objector prevails, these PICs become mandatory for any applicant that wins the contention set. What is your view of this proposal?	At-Large welcomes this proposal but the AGB must reflect this possibility and the applicant be given the choice of withdrawing its application in the event the objector prevails. What about appeals? And refunds?

The remaining Q 2.8.1.e.16 to Q 2.8.1.e.19
deal with String Confusion Objections
& Legal Rights Objections
for which ALAC does not have standing to file
under the current AGB