

ALAC - February 2011 - GAC-Board Meeting

Topic #	New gTLD Program Topics	At-Large Position
1	The objection procedures including the requirements for governments to pay fees;	Specifically, we wish to emphasize, as strongly as possible, our support for the CWG's consensus calls to: <ul style="list-style-type: none"> Require individual government objections to be made either through the Community Objections Process or through one of the ALAC and the GAC; Enable the GAC and ALAC to submit objections through the Independent Objector <ul style="list-style-type: none"> ALAC Statement on the Community Working Group Report on Implementation of GNSO New gTLD Recommendation Number 6, 30.10.10
2	Procedures for the review of sensitive strings;	At-Large has always been generally against the very principle of gTLD string objections based on "morality and public order". However, we see the Rec6 CWG recommendations as an effective way to attend to the most pressing needs while addressing our concerns about the existing implementation. We wholeheartedly concur with the recommendations in the report that achieved Full Consensus or Consensus. <p>- ALAC Statement on the Community Working Group Report on Implementation of GNSO New gTLD Recommendation Number 6, 30.10.10</p>
3	Root Zone Scaling;	
4	Market and Economic Impacts;	
5	Registry – Registrar Separation;	<p>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.</p> <p>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.</p> <p>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.)</p> <p>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.</p> <p>The above notwithstanding, there is a general consensus on a number of points.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>- ALAC Statement on the Initial Report on Vertical Integration Between Registrars and Registries; 29.08.10</p>
6	Protection of Rights Owners and consumer protection issues;	The At-Large Community favours transparent processes that produce binding decisions enforceable on all actors to protect ordinary Internet users from harms or potential harms that could develop in the Internet ecosystem and, quite possibly, be worsened with the introduction of new gTLDs. <p>- - Statement from ALAC on Draft Applicant Guidebook v4 and Explanatory Memorandum; 29.08.10</p>
7	Post-delegation disputes with governments;	
8	Use and protection of geographical names;	
9	Legal recourse for applicants;	<p>Dispute "Resolution" (Attachment to Module 3, Article 3)</p> <p>A substantial part of At-Large's long-time opposition to the Morality and Public Order objection (Module 3, Section 3.1.2.3) has been with the "Dispute Resolution Service Provider" ("DRSP"), a process that At-Large has held to be unethical, opaque, and cumbersome. The current implementation requires applicants and objectors to spend vast amounts of money on a needlessly litigious process, opening wide opportunities for gaming while forcing ICANN to make (or subcontract) judgements of comparative morality. This process provides substantial barriers to legitimate objectors while encouraging frivolous objections from well-funded parties.</p> <p>In the past few months At-Large has worked intensively, together with members of the GNSO and GAC, to provide a community-wide consensus alternative process to the DRSP that would eliminate our objections. The Cross-Community Working Group ("CWG") was explicit in charting a path that is simpler and less expensive, while ensuring that objections are properly and independently evaluated well in advance of any necessary Board action. The CWG recommendations fully implement GNSO Guideline H while achieving full community consensus and without requiring the DRSP. Critically, the CWG's consensus and "strong support" recommendations change the fundamental nature of string evaluation from a subjective comparison of morality to an objective analysis of objections against international law. Yet, with a sweeping comment of "we disagree" in its explanatory notes, ICANN has essentially shrugged off the community consensus and the fundamentally inappropriate DRSP concept remains essentially untouched in the PAG. We believe that the role of support staff is to implement policy reached by consensus whilst steering well clear of "agreeing" or "disagreeing" with interpretations. Consequently, members of At-Large who have been active participants in this process have substantial and justifiable concerns that the CWG details have been inadequately and insufficiently presented to the Board, and as a result its recommendations have not received appropriate consideration.</p> <p>- ALAC Statement On the Proposed Final Applicant Guidebook; 08.12.10</p> <p>The Independent Objector (Module 3, Section 3.1.5)</p> <p>On the matter of the Independent Objector ("IO"), critical safeguards of the public interest have either been removed or left out. Rather than a mechanism to prevent applicants and objectors to affect outcomes merely by out-spending their opponents, the IO has been re-architected as a tool to allow the introduction of anonymous, unaccountable, opaque objections. Upon analysing the issue the At-Large Community is now strongly of the opinion that role of the IO must be eliminated. While we understand its reason for creation, the potential for misuse has been made clear; any benefit it might provide will be far outweighed by its invitation for gaming and bullying. The accessibility issues that the IO was designed to address can be fulfilled if the CWG recommendations (not related to the IO) are implemented. Should the ICANN Board and staff insist -- against the public good -- to implement the IO, they must at least implement all necessary safeguards to prevent the dangers inherent in the current design.</p> <p>We also note that if the IO is abolished significant cost savings possible can and should be achieved, and considered in the cost-recovery analysis of the gTLDs program.</p> <p>- ALAC Statement On the Proposed Final Applicant Guidebook; 08.12.10</p>

10	Providing opportunities for all stakeholders including those from developing countries;	<p>Applicant Support (Module 1, Section 1.2.10) Another cross-community GNSO/ALAC effort -- to determine ways to reduce barriers to would-be applicants from developing and emerging economies -- would help demonstrate ICANN's global relevance and eagerness to expand Internet access worldwide, while closing the technology gap between rich and poor. This "Joint Applicant Support" ("JAS") working group also achieved significant consensus on many important issues and is under approval processes at both the GNSO and ALAC. Given the difficulties of properly bringing forward the CWG recommendations, we urge the Board to ensure that its briefings on this matter fully and fairly consider the working group's recommendations. - ALAC Statement On the Proposed Final Applicant Guidebook; 08.12.10</p> <p>Modifications as proposed by Tijani Ben Jemaa (additional text is in blue, deleted text in red)</p> <p>The consensus in the At-Large Community is that whatever the finalized processes and procedures, ICANN must embrace the prospect of providing affirmative support for participation of hitherto applicants from developing countries and/or weak communities who really need assistance in applying for and operating the new gTLDs marginalized communities, especially those entrusted to act on behalf of disadvantaged groups or those with agendas widely recognized as active in the general public interest in the new gTLD economy. The ALAC strongly endorses continuation of these efforts. - Statement from ALAC on Draft Applicant Guidebook v4 and Explanatory Memorandum; 29.08.10</p> <p>Without significant cost reduction and other kind of support for the needy applicants, the new gTLD program wouldn't be inclusive, and the developing countries together with the poor communities wouldn't be able to apply.</p> <p>ALAC would like to remind ICANN that its Board of Directors adopted in Nairobi the resolution 20 that says (excerpt): Whereas, ICANN aims to ensure that the New gTLD Program is inclusive, along the lines of the organization's strategic objectives; Whereas, numerous stakeholders have, on various occasions, expressed concern about the cost of applying for new gTLDs, and suggested that these costs might hinder applicants requiring assistance, especially those from developing countries. Resolved, the Board recognizes the importance of an inclusive New gTLD Program. Resolved, the Board requests stakeholders to work through their SOs and ACs, and form a Working Group to develop a sustainable approach to providing support to applicants requiring assistance in applying for and operating new gTLDs .</p>
11	Law enforcement due diligence recommendations to amend the Registrar Accreditation Agreement as noted in the Brussels Communiqué	
12	The need for an early warning to applicants whether a proposed string would be considered controversial or to raise sensitivities (including geographical names).	<p>At-Large has always been generally against the very principle of gTLD string objections based on "morality and public order". - ALAC Statement on the Community Working Group Report on Implementation of GNSO New gTLD Recommendation Number 6, 30.10.10</p> <p>We emphatically call for the complete abolition of the class of objections based on morality and public order. We assert that ICANN has no business being in (or delegating) the role of comparing relative morality and conflicting human rights. Abolishing the morality and public order class of objection will eliminate the risk to ICANN of bearing responsibility for delegating morality judgment to an inadequate DSRP. Certain extreme forms of objectionable strings may be addressed through minor modifications to the "Community" class of objection. While we fully appreciate the motivation behind this class of objection, we cannot envision any application of it that will result in fewer problems than its abolition. - Declaration of the At-Large Summit, 03.09</p>