

# ALAC - February 2011 - ALAC Comment on Draft Process for Recognition of New GNSO Constituencies

## ALAC Comment on the Draft Process for Recognition of New GNSO Constituencies dated 10 January 2011

Revised Final Draft - 27 February 2011:

The ALAC fully supports the intent of the draft process, specifically to give the Stakeholder Group the prime responsibility for reviewing and approving new Constituencies, while preserving the Board's right to act counter to the Stakeholder Group advice if it feels that this serves ICANN's greater needs.

However, the ALAC is concerned that the process proposed is overly cumbersome, inefficient, and will discourage participation. The first and third criteria for the new process (in part) specified:

1. Optimize the considerable time and effort required to form, organize, and propose a new GNSO Constituency by prescribing a streamlined sequence of steps....
3. Manage the entire process to a flexible, but specific and limited timeframe

It is unclear how the process can be streamlined without removing its important checks and balances, but it is clear that as described, the process will take far longer than is necessary or is acceptable.

As proposed, in a best-case scenario, it will take at least 9-10 months from initial application to final recognition. This presumes that the Stakeholder Group acts expeditiously and that the Board considers the application at its first regularly scheduled meeting. If the Board addresses the issue at a subsequent meeting (as allowed in the process) for both the Applicant and Candidate Phase, the recognition time will be almost 1.5 years. Should reconsideration be required, the worst case scenario grows to over 2.5 years.

Few potential Constituencies are likely to have the fortitude to withstand such delay. Moreover, the investment in participating in several years of ICANN meetings would be considerable.

A significant part of this elongated procedure is attributed to the long gap between the specified "regularly scheduled Board meetings", which according to current schedules are held only during ICANN meetings. If ICANN were to have only 2 meetings per year as has been suggested at times, the approval process would be elongated even more.

The ALAC recommends that the Board treat this as requiring more urgent attention and that the procedure specify that the Board will review Constituency recognition issues within two meetings, whether Regular or Special. Moreover, as is the case with a number of other Board consideration issues, the norm should be to address Constituency recognition issues at its next meeting. The process already includes provisions if a decision within two meetings is not possible.

Lastly, at present only the Commercial and Non-Commercial Stakeholder Groups recognize the concept of Constituency. Both the Registry and Registrar Stakeholder Groups do not have such a concept. Presumably therefore, this draft process only applies to groups wishing to form Constituencies within the Commercial and Non-Commercial Stakeholder Groups and not within the contracted party Stakeholder Groups. The document should state this explicitly and unambiguously to ensure that expectations of potential applicants are set appropriately.

Draft – 18 Feb 2011.

The ALAC fully supports the intent of the draft process, specifically to give the Stakeholder Group the prime responsibility for reviewing and approving new Constituencies, while preserving the Board's right to act counter to the Stakeholder Group advice if it feels that this serves ICANN's greater needs.

That being said, the proposed process seems overly cumbersome and extremely time consuming. The third criteria for the new process specified:

"Manage the entire process to a flexible, but specific and limited time-frame"

As described, the best-case scenario will take about 9-10 months to complete. But that presumes that the Stakeholder group does not use all of the allocated time to make a decision and that the Board always addresses the issue at its first regularly scheduled Board meeting. If the Board addresses the issue at its second allowed meeting (as allowed in the process) for both the Applicant and Candidate Phase, the overall time grows to almost 1.5 years. Should reconsideration be required, as it might in controversial cases, the worst case scenario grows to over 2.5 years.

Few potential Constituencies are likely to have the fortitude to withstand this. Moreover, the investment in participating in several years of ICANN meeting would be considerable.

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**We suggest that the Board treat this as requiring more urgent attention and that the procedure specify that the Board will review Constituency recognition issues within two meetings, whether Regular or Special. The process already includes an escape clause if a decision within two meetings is not possible.**

**Lastly, at present only the Commercial and Non-Commercial Stakeholder Groups recognize the concept of Constituency. Both the Registry and Registrar Stakeholder Groups do not have such a concept. Presumably therefore, this draft process only applies to groups wishing to form Constituencies within the Commercial and Non-Commercial Stakeholder Groups and not within the contracted party Stakeholder Groups. The document should state this explicitly and unambiguously to ensure that expectations of potential applicants are set appropriately.**

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## **Comments welcome through 22 February 2011**

Dear Alan,

thanks for the contribution. I agree with your analysis and suggestion. My remark:

- paragraph 6, your suggestion could be reinforced along the following lines (my suggested addition in BOLD), "... that the Board will review Constituency recognition issues within two meetings, whether Regular or Special, **AND IN ANY CASE WITHIN THE RELEVANT CALENDAR YEAR**".

Regards,

Jean-Jacques

- posted by Jean-Jacques Subrenat on 18 February