Summary of Analysis

ALAC states that the present WG was chartered “to address the issue from a GNSO perspective” while the proper course would have been for the ICANN Board to take “the lead in chartering a cross community effort to delve into the issue and make recommendations on how to once more have a sense of order related to gTLD policy and implementation” – which impliedly existed prior to the policy vs. implementation debate relating to the Strawman. As to the formation of the present work group, ALAC states that “this was not how the problem should have been addressee.”

As to the definition of “gTLD Policy”, ALAC states that this is set forth “in the Bylaws as the realm of the GNSO” and that Policy “consists of whatever the PDP WG decides to put into its recommendations” and can be “quite general” (as in the case of the New gTLD PDP. This “left a lot of latitude to the implementers” and there were “inevitably ‘implementation’ decisions which would have substantive impact of[sic] the community and thus **could** have been considered Policy if that PDP had chosen to be more specific.”

ALAC states that “implementation” can be understood as consisting of two distinct phases: “execution” which would entail no decision that would impact the community, and “implementation design” which includes decision[s] that could have been part of the original policy”.

Challenge is to develop mechanisms “to use to make these decisions which do not exclude the bottom-up process, but at the same time do not result in interminable delays.”

NOTE: The vagueness of the analysis and references to “these decisions”, an indeterminate definition of terms, etc. leads to ALAC offering of useful “principles which should guide the process” of developing these mechanisms.

Principles:

1. There must be a methodology to recognize when a decision will impact the community, and such decisions must involve a bottom-up process in addressing those decisions.

2. The processes must be designed to be time-sensitive – unending debate should not be an option.

3. There must be a way to come to closure when the community is divided, and this should not simply give executive powers to ICANN Staff.

4. One of the key questions that must be resolved is what part should the Board play in taking action if the community is divided. This question is one of the reasons that the ALAC believes that this should have been a Board-led initiative, but the fact that it isn’t does not remove the importance of the question.