

In response to ICANN's call for comment on the Proposed Terms of Reference for Independent Review of the At-Large Advisory Committee, I submit these comments in my individual capacity. While they are based on my experience as a member of the Interim At-Large Advisory Committee, I do not speak for the Committee.

It is critical to the secure and stable operation of ICANN's technical functions that it provide a channel for input from and maintain the support of the Internet-using public. ICANN's international legitimacy depends on its effective responsiveness to input from *all* stakeholders. Review of ALAC's structure and operation should thus be framed within that overall purpose. ALAC must be evaluated not only as to how effectively it has functioned within the structures it has been set, but how effectively even optimal performance of those structures could serve the representation needs of the at-large body of individual Internet users.

By contrast, these TOR therefore seem too closely restricted to study of the efficacy of the existing ALAC structures. The reviewers should not conclude from the weakness of these structures that individual participation is unworkable, but rather should evaluate alternative structural mechanisms for representation of individual Internet users in ICANN's work and policy processes. The independent review provides a valuable opportunity for restoring the voice of the individual Internet user to ICANN.

The rationale for the ALAC, as described in Article XI, Section 2, 4(a) of the Bylaws, is "to consider and provide advice on the activities of ICANN, insofar as they relate to the interests of individual Internet users." The ALAC is intended to provide voice for individual Internet users, replacing an initial structure in which at-large Internet users were to elect half of ICANN's Board. Key questions for the review, therefore, are whether individual Internet users have in fact achieved voice through the activities of ALAC, and whether that voice substitutes adequately for voting representation at the Board level and in Policy Development Processes.

Specific additional questions and recommendations follow:

PART I. Does the ALAC have a continuing purpose in the ICANN structure?

- Is the bylaws-stated purpose of ALAC too minimal to provide for public representation and participation within ICANN?
- Are the ALAC-enabled modes of participation insufficient for individual Internet users to contribute to ICANN?
- Do individual Internet users suffer from inadequate means by which to make their concerns heard and to receive timely responses to their concerns?
- Does the complexity of the ALAC structure turn away willing and valuable Internet user participation?
- Would greater participation, through voting at the GNSO and Board level, increase the incentives to individual Internet user participation and the quality of that participation?
- Does ICANN need ALAC or a replacement for it?
- Would individual Internet users be better served by reinstating direct elections?
- Do individual Internet users feel inadequately represented by ALAC?
- Have years of delay in achieving real representation frustrated an important part of the at-large Internet-using public?

I recommend emphasizing Questions 2,3, and 8-12 in the existing Part I inquiry.

PART II. Is there any change in structure or operations that could improve the ALAC's effectiveness?

- Question 17: *Should any of these three structural levels be changed and, if so, how?* I recommend specifically that the review consider flattening the layers of the ALAC to reduce both bureaucratic overhead and disincentives to participate through the dilution of opportunities.
- Does adherence to the ICANN regional configuration unnecessarily fragment and constrain input and participation?
- Are ALAC's ministerial tasks unduly left to volunteers when they should be delegable to staff at the direction of ALAC?
- Has ALAC's service to the individual Internet users been hindered by staffers' conflicting interests and responsibilities?
- Would individuals be better served if ALAC staff operated at the direction of the Committee?
- How could ALAC and individual Internet users more effectively obtain resources and staff support?
- Question 31 asks, *To what extent have the recommendations of the Ombudsman been followed?* Given the intrusive nature of the Ombudsman's inquiry, we should add *To what extent have the Ombudsman's processes and recommendations been appropriate?*
- To what extent have tools used and introduced by ALAC served as a model for other ICANN bodies?
- How often have the Board or GNSO followed ALAC recommendations? How often have they demurred?
- How often have ALAC contributions had a visible impact on ICANN policymaking?

I look forward to assisting in answering these questions as part of the review.

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