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AT-LARGE ADVISORY COMMITTEE

ALAC Statement on the New gTLD Board Committee Consideration of GAC Safeguard Advice

Introduction

Alan Greenberg, ALAC member from the North American Regional At-Large Organization (NARALO) and ALAC Liaison to the GNSO and Olivier Crépin-Leblond, ALAC Chair, composed an initial draft of this Statement after discussion of the topic within At-Large and on the Mailing Lists.

On 31 May 2013, this Statement was posted on the [ALAC Statement on the New gTLD Board Committee Consideration of GAC Safeguard Advice Workspace](#).

On that same day, Olivier Crépin-Leblond, Chair of the ALAC, requested ICANN Policy Staff in support of ALAC to send a Call for Comments on the draft Statement to all At-Large members via the [ALAC Announce Mailing List](#).

On 5 June 2013, a version incorporating the comments received was posted. The Chair requested that Staff open a five day ALAC ratification vote on the Statement and submitted the Statement to the relevant Public Comment Process, copying the ICANN Staff member responsible for this Public Comment topic with a note that the Statement was currently undergoing ALAC ratification.

Summary

1. The At-Large Advisory Committee (ALAC) supports the intent of what is requested in the New gTLD safeguards outlined within the GAC Communiqué issued during the ICANN 46th meeting in Beijing.
2. We find it regrettable that these safeguards were not introduced by the GAC during the design of the New gTLD program or much earlier in the implementation process.
3. The ALAC supports all of the safeguards in principle.
4. We urge ICANN to do everything possible within its remit to lessen the impact of the liabilities on new registries including through the use of contractual tools.
5. However, some of the safeguards are excessive, particularly for many TLD classes cited.
6. On Annex II, we reiterate our concerns regarding the Public Interest Commitments

The original version of this document is the English text available at <http://www.atlarge.icann.org/correspondence>. Where a difference of interpretation exists or is perceived to exist between a non-English edition of this document and the original text, the original shall prevail.

ALAC Statement on the New gTLD Board Committee Consideration of GAC Safeguard Advice

The At-Large Advisory Committee (ALAC) supports the intent of what is requested in the New gTLD safeguards outlined within the GAC Communiqué issued during the ICANN 46th meeting in Beijing.

We find it regrettable that these safeguards were not introduced by the GAC during the design of the New gTLD program or much earlier in the implementation process. An early intervention would have successfully imprinted strong public interest requirements on the program. In addition, it would have allowed sufficient time for ICANN to develop more effective and enforceable mechanisms to address community and public interest concerns.

The contents coupled with the late timing of the GAC intervention highlight the challenge of understanding and grappling with the full implication of an extremely complex program on the interests that the GAC represents. We feel that it is important for the ICANN Board to note that different stakeholder groups in the ICANN ecosystem have different consultation requirements to come to an agreed position. Some (like the GAC and the ALAC) may require more time to provide meaningful, representative and consultative feedback.

The GAC advice carries tremendous value in terms of consumer protection, which the ALAC fully appreciates. We recognize that the intervention creates a high level of uncertainty regarding the implementation and viability of the new gTLD program. We thus call on the ICANN board to address the concerns raised by the GAC with urgency to restore public confidence in the program while striving to re-establish certainty parameters for the new gTLD applicants.

Safeguards Applicable to All New gTLDs

Concerning “Safeguards applicable to all new gTLDs” listed in this Section, the ALAC supports all of the safeguards in principle.

We understand that the introduction of the safeguards at this point in time may place an unreasonable burden on new registries, including additional legal and financial liabilities. These additional requirements may jeopardize the success of new enterprises and create a significantly uneven playing field between them and the legacy gTLDs. To enhance choice and competition in the gTLD space, we urge ICANN to do everything possible within its remit to lessen the impact of the liabilities including through the use of contractual tools.

Safeguard for WHOIS verification and checks: We believe the term “statistically significant” needs to be carefully defined so as to set clear expectations and eliminate misunderstanding in implementation.

Category 1 / Consumer Protection, Sensitive Strings, and Regulated Markets

Sub-Items 1-4: We find these additional safeguards to be reasonable and support them fully.

Sub-Item 5: we find the requirement of providing contact details for regulatory bodies to be excessive, particularly for many TLD classes cited.

Non-Exhaustive Strings Identified for Safeguard Application: We find the list of TLDs to be over-reaching. The references to “non-exhaustive” imply that at some undefined point in the future, new TLDs may be added to the list, which will affect program certainty for gTLD applicants or later operating registries.

Sub-Items 6-8: The reference to "some of the above strings may require further targeted safeguards" is far too vague. Requirements for authorization and credentials and registry verification and re-verification of them are certainly justifiable for a limited set of TLDs. However, when taken in the context of the 180+ Category TLDs, such controls would put these new registries at a significant disadvantage to competing domain alternatives and would exercise control that is virtually unheard of in other forms of media.

Exclusive Access: We support the requirement that exclusive registry access should serve a public interest goal. However, we feel that the requirement as stated is too general and requires greater specificity for enforceability.

Public Interest Commitments

Although this Public Comment Period is specifically focused on the safeguards identified in Annex I of the GAC Communiqué, the ALAC feels it important to highlight Annex II as well.

The GAC has issued a set of questions related to the Public Interest Commitments (PIC) Specification for new gTLD registries. The ALAC shares the GAC's interest in the PIC as a mechanism for addressing community and public interest concerns. The ALAC urges the ICANN Board to ensure that the questions posed by the GAC, as well as those concerns identified in the ALAC comment on the PICDRP (<http://tinyurl.com/ALAC-PICDRP>), are addressed urgently, and that clarification on the enforceability of the PIC be relayed clearly and comprehensively to the ICANN community by the time the ICANN 47th meeting is convened in Durban.