

Internet Corporation for Assigned Names and Numbers

At-Large Advisory Committee – GNSO Improvements Working Group

AT-LARGE ADVISORY COMMITTEE

STATEMENT FOR THE ICANN BOARD

ON

BOARD GOVERNANCE COMMITTEE GNSO IMPROVEMENTS WORKING GROUP RECOMMENDATIONS

Introductory Note by the Staff

This document is a statement from the At-Large Advisory Committee delivered to the Board of Directors of ICANN in its role as an Advisory Committee. The initial draft was produced by the ICANN At-Large staff at the direction of the Chair of the At-Large Advisory Committee.

This text was revised by the Ad-Hoc GNSO Improvements Statement Drafting Group composed of C Aguirre (LACRALO), A Greenberg (NARALO), C Langdon-Orr (APRALO/ALAC Chair), V Cretu (EURALO), M El Bashir (AFRALO), and V Scartezini (ALAC Vice-Chair) appointed by the ALAC on 11th March 2008.

This Rev3 is the result of the drafting group's deliberations and was provided for community review on 24th March 2008, with comments being due not later than 1300 UTC 31st March 2008.

The Ad-Hoc Drafting Group will finalise the text using the input received from the community so that the resulting final text can be conveyed to the Board of Directors of ICANN by the At-Large Advisory Committee.

Note on Translations

The original version of this document is the English text, which will upon publication be available at <http://alac.icann.org/correspondence/>. The process of gaining agreement on the contents of the original text was conducted in English. 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.

[End of Introduction]

At-Large Advisory Committee Statement to the ICANN Board on the Board Governance Committee's Recommendations for Improvements to the Generic Names Supporting Organisation

We present our compliments to the Board of Directors of ICANN and welcome the opportunity to make our comments on the proposed changes to the Generic Names Supporting Organisation as recommended by the Board Governance Committee's GNSO Review Working Group.

In order to understand our views, it is useful firstly to state that the At-Large community has been implementing many of the changes proposed for the GNSO for the past year. For example:

- We have had a global email list for all members of At-Large since late 2006;
- We have had simultaneous interpretation at meetings since late 2006, and also on many teleconferences since early 2007 – though this has proven to be quite complicated and does not always work well. ICANN has done what it could to start making documents available in translated editions, beginning in late 2006 – though far more is required to ensure proper and effective participation;
- We began implementing working groups on policy development in March 2007 – though this is still very much an ongoing process;
- Devolution of decision-making on substance has been in the process of implementation since the last RALO was formed in June 2007;
- The ALAC itself established Rules of Procedure in detail – including in relation to establishing working groups, subcommittees, and the like – in October 2007, the RALOs having done so earlier;
- We developed a completely transformed and very open mechanism for applications to join At-Large which included the involvement of the RALOs in depth, and transmitted those changes to the Board for approval and recognition some months ago;
- Our new website is in the final stages of going live; it incorporates from what we can tell all the improvements which are proposed in relation to the GNSO's websites;
- We have under preparation a membership database system for keeping track of community members (which we hope to see brought online as soon as possible);
- We are in the process of developing an Accountability Framework for members of the At-Large Advisory Committee, which upon completion will be used as the basis for similar frameworks for the RALOs.

We therefore approach the recommendations with a fair amount of direct experience in implementing many changes that the GNSO is proposing to embark on in the coming months and years.

We have relied upon our staff support heavily in this process and have developed a good understanding of those elements of change which are administrative improvements for which the staff is responsible, and which are – changes to voting and decision-making structures. This is a very important differentiation to make.

Oversight and Management of the Implementation Process

We do not believe that a ‘top down’ implementation management process is reasonable. The community, not an ‘Implementation Consulting Group’ which is actually the Board Governance Committee’s GNSO Review Working Group, should be responsible for managing the political changes and working hand in glove with the staff in the implementation of the administrative and operational improvements to the staff required to support them.

Outreach and Multilingual Approach

We note with favour that there is considerable attention paid to ensuring access for multilingual participation in the ‘new and improved’ GNSO. We believe, however, that with respect to outreach a much greater commitment is necessary than what is provided within the current proposals.

As one of the most international of all ICANN communities, we view outreach as a critical area where ICANN should improve. As diverse as the current At-Large community is, we believe it should be much more diverse and much larger. When we look at much of the GNSO, we find that it is less representative of a global stakeholder community than it should be. Changing this should be a priority and to a much greater degree than is presently provided for in the recommendations. We note that achieving much greater diversity and global spread in GNSO constituencies is an essential element in a truly global decision-making environment. We do of course understand that the GNSO’s makeup can at best only represent an uneven spread of those potential constituents.

The BGC Report does highlight the importance of making the work of the GNSO more available, accessible, and comprehensible, improving communications and the website, and related improvements. We wish to highlight the importance of this work as to us the GNSO’s work often is difficult to follow and the website difficult to use. These problems are even more significant for non-english fluent participants.

Decision-Making Changes to the Makeup of the Council and Constituencies

We are aware that there is a considerable debate about this area of the recommendations amongst many parts of the ICANN community. We would like to make the following points:

1. **The recommendation that the GNSO’s makeup should focus almost exclusively on contracted parties and registrants is wrong.** Individual Internet users make up the vast majority of the users of the Domain Name system. What happens to the names and numbers systems is of great importance to the public. Therefore, the interests of the Internet using public must be a key element in an improved GNSO. The current proposals completely miss this.
2. **Contracted Parties should not dispose of more than one third of the votes in the GNSO Council.**
3. **The definition of ‘contracted parties’ is much too narrow.** We have been concerned for a long time with the fact that alongside the directly contracted parties – registries and registrars – there are literally thousands, if not tens of thousands – of parties which are directly related to those parties. Groups such as, subsidiaries of

registrars and registries who own domain portfolios, and domain name resellers are examples of those with a direct relationship to the contracted parties. These interests must be included, we believe, alongside the ‘directly contracted’ parties.

4. **Finally, there should be no ‘rush’ to make the political changes.** It is important that the ultimate division of decision-making power should be determined between the parties and not *initially* by the Board or any external party. A top down imposition of changes is not congruent with the ethos of ICANN – nor is it necessary. It is of course necessary to start with a proposal or two – which the current report does admirably. It is now for the community to come up with a final solution – which might take the form of an evolutionary approach if that’s what is acceptable to everyone. There are a large number of very useful proposals for improvement in the report. Whilst the community debates this particular question the rest of the work can get underway.

Improvements to Working Processes

We wish to remind the Board of an issue that the current proposals do not take nearly enough account of: the different working styles of people who are from different societies throughout the world.

The current ICANN deliberative processes – whether in face-to-face meetings or on teleconferences – give a huge advantage to the ideas expressed by ‘A-Type’ personalities who are fluent English speakers and who come from social traditions where it is usual for an individual to feel comfortable disagreeing in public or semi-public fora (whether face-to-face or in electronic discussion fora such as mailing lists).

The reality is that for many peoples of the world, neither of these assumptions holds true. It is therefore necessary for processes that facilitate the involvement of those who do not come from these traditions to be utilised so that a more level playing field for contributing to the work of ICANN is created.

For example: tools to facilitate collaborative drafting online, or ad-hoc conversations between very small teams or subgroups which allow for a different discursive dynamic to be created, are just two ideas that should be explored.

The current proposals do not really deal with this fundamental issue well at all. This should be remedied either before, or during the implementation planning – but the Board’s resolutions on the implementation should take account of these issues.

Involvement of the Internet End User’s Voice in the GNSO

It has been proposed that there should be some participation, over and above that of the current Liaison system, for the At-Large community in the work of the GNSO. There has been considerable discussion about this and we do believe that the Internet end-user’s voice must be included in the new GNSO.

Increased involvement in the GNSO’s work on a full-membership basis should not affect anything else about the At-Large community, or the provisions in the ICANN Bylaws related to it, at the present time. At-Large is in the process of being reviewed and to suggest any changes to the structure of the community as it presently exists could prejudice the outcome of the review.

The community as a whole would need to decide amongst itself how exactly its representation in the GNSO should be structured and the relationship that this representation should have within the At-Large Community.

With the deployment of new GTLDs Internet end-users will engaged – and in any case, the GNSO restructuring should create the broader basis for policy development that is one of the key outcomes.

We do not have in mind a particular voting structure for involvement of the Internet end-users voice, but are open to any proposal that provides for participation on an equitable basis. With respect to reaching agreement on these crucial questions, we think there are still other problematic issues that must be thought about first. For instance:

- Some stakeholder communities may feel that they naturally ‘belong’ to more than one major subgroup.
- Major subgroups of the GNSO may be composed of more communities than can be represented in the GNSO Council’s membership. This situation could therefore result in minority views not being reflected at the Council level.
- The BGC report notes that under the existing system new constituencies could form – but that didn’t happen. It is not implicitly clear that under the proposed new structures this would happen in the future either. We believe that considerable staff support would be necessary in order for this to take place. Making it easier for new constituencies to form and putting in the informational and other supports to facilitate this should be an important element of the GNSO Improvements work.
- The BGC report proposes a working group model that it hopes will address many of the problems previously identified in the policy development process. The working group as portrayed by the recommendations will have strong, knowledgeable, capable chairs, and will be judiciously comprised of interested and informed people from all affected constituencies. Under the guidance of the chair (who if needed will receive training on how to properly fill that role), the working group will work towards the best interests of ICANN and will generally reach consensus. How this is to come about is left as an implementation issue. Although the described outcome is certainly a possible one, there are so many potential problem areas that it may be wise to understand the actual mechanics of how to do this prior to committing to this direction.

Since as mentioned the At-Large community has been actively engaged in developing a working group modality for policy development, some of the experiences we have had in that process may prove salutary. We have created a report of our efforts in this regard over the past year, and contrasted them with the GNSO Improvements recommendations, in hopes that this may prove useful. It may be found at https://st.icann.org/alac/index.cgi?al_alac_od_wg_0308_2¹

These are just a few of the obvious issues that occurred to us. Resolving them is integral to designing an overall solution at the GNSO Council level.

In closing, we thank the board in advance for its consideration of our views. We look forward to a response to our concerns and recommendations in due course.

¹ This report is still under preparation as at 21st March 2008, but will be finalised before this statement is itself finalised.