

ALAC Updates: APR.-JUN.2023

Policy Development Activities

Statements approved by the ALAC

[Phase 1 Initial Report on the Internationalized Domain Names EPDP \(EPDP-IDNs\)](#)

Specific Comments

Root Zone - Label Generation Rule (RZ-LGR)

The ALAC strongly believes in the goal of making the Internet truly multilingual and universally accepted.

The introduction of variant labels supports improved multilingualism of the Internet by offering to various language communities the ability to use, what are ostensibly, strings deemed as equivalent to each other, i.e. variants. The ALAC recognises that a consistent approach is needed for the management of variant gTLDs at the top-level without introducing unmitigated risks to end-users. Noting that the ICANN Board has already adopted the Subsequent Procedures PDP Recommendation 25.2 to require the use of the RZ-LGR to validate all future gTLDs and the calculation of their respective variant labels and disposition values (i.e. whether allocatable or blocked), there is no reason why there should be a different approach applied to existing IDN gTLDs. In that respect, the ALAC supports Preliminary Recommendation 1.1 in adopting the RZ-LGR as the sole source to determine the variant label set for all existing gTLDs, and the disposition values of each variant label in the variant label set. From a policy perspective, it should not matter whether those existing gTLDs were delegated in or before the 2012 round. Otherwise a gap in policy for existing gTLDs delegated before the 2012 round would arise.

Same-Entity Principle

The ALAC supports the concept of “Same-Entity” Principle applying to variant label sets. While the intent of Preliminary Recommendation 2.1 is explicitly called as applying to existing IDN gTLDs, it would likely be just as important to make it clear that the principle also applies to all existing gTLDs, to be complete. Again, from a policy perspective, it should not matter whether those existing gTLDs were delegated in or before the 2012 round, and we would want to avoid creating a gap in the policy vis a vis existing gTLDs delegated before the 2012 round.

Application Fee Regime for Variants.

The ALAC supports Preliminary Recommendation 3.14 in recommending that existing IDN gTLD registry operators be given a waiver of the base application fee to apply for

variant labels of their existing IDN gTLDs in the immediate next round of applications, noting that the existing IDN gTLDs are the only existing ones which have allocatable variant labels based on the RZ-LGR. This preliminary recommendation recognizes that, as variants at the top-level having not been allowed in the 2012 round, there is a need for a targeted, fair remedy to address any pent-up demand for variant labels of existing IDN gTLDs since the 2012 round and one which does not cause unreasonable disadvantage against new applicants for new IDN gTLDs and their variant TLDs in future.

As a follow on, the ALAC also supports Preliminary Recommendation 3.15 in providing a one-time exception for applications, submitted in the immediate next round, by existing IDN gTLD registry operators for variant labels of their existing IDN gTLD, to receive priority in the processing order of applications.

Similarly, the ALAC recognises and supports Preliminary Recommendation 3.13 which provides for a discounted base application fee for a future registry operator wanting to apply only for allocatable variant labels of a previously secured delegated IDN gTLD as a way to discourage a rush to applying for both primary and variant labels at the same time without having time to properly plan its introduction of variant labels.

[Bylaws Amendments and Documents to Implement the NomCom2 Review](#)

Do we agree with the statement defining “Unaffiliated Directors” and the fundamental bylaws amendment?

The ALAC and the At-Large Community are fully supportive of the change proposed by the NomCom2 Review to define Unaffiliated Board Members (i.e., Directors). It also supports mandating that at least (3) three of the directors be classified as unaffiliated. It is integral to the ICANN Board that three (3) of the eight (8) independent ICANN Board Members chosen by NomCom be classified as unaffiliated, and not directly associated with ICANN. In the most recent selection process, the NomCom received such excellent candidates for Board Directors that the NomCom was able to elect two ICANN outsiders as Board Members. Advice by these Outside Board members play a critical role in making sure ICANN is providing the service that the community wants and meeting its goals of ensuring the stability and secure operation of the Internet's unique identifier systems.

The main role of the NomCom is to find independent Board Members and the task would be made much easier if we are required to select a certain number of unaffiliated directors since they do not come with a bias either conscious or unconscious to the work ahead. They can truly look at the issue at hand and use their expertise and

experience to provide us with their advice that is not clouded by a bias one way or another.

However, the At-Large Community is split in how this term “Unaffiliated” is defined. Some are of the opinion that the definition of "Unaffiliated Director" is too strict and excludes candidates even with previous ICANN experience, as a volunteer, from becoming one of these “Unaffiliated” Directors. However, others within the At-Large Community agree with how the NomCom Review Committee has defined “unaffiliated” and that there will not be an issue with locating unaffiliated directors. We note that “Unaffiliated” does not mean lacking knowledge about ICANN and the Internet ecosystem, but it does mean that they have not been actively involved in ICANN before. The “Unaffiliated” Board members will not be influenced by one constituency and will come with an open mind.

The ALAC and At-Large Community also agree with the statement in the public comment that Board Members nominated as “Unaffiliated” Directors can be renominated to those roles without losing their “Unaffiliated status”. If instead a Board Member loses their unaffiliated status, then they would no longer qualify as an “unaffiliated” Director.

2. Do we agree with the standard proposed Standard Bylaws amendments proposed to Article 8 of the ICANN Bylaws as well as the Transition Clause proposed for Article 27.

The ALAC and At-Large Community support the granting of voting rights to the current non-voting delegates so that all delegates are treated equally. The At-Large Community and the ALAC also support the change in the term limits for NomCom members from one year to two years. NomCom delegates spend a significant amount of time in training and in getting acquainted with the rules and it would be beneficial to all if new members do not have to be trained each year and that they could start the year off learning from their past mistakes and having a smoother process the next year. This would enable the delegates to be better prepared to hit the ground running in their second year. Adding term limits to a NomCom delegate term is helpful in that it brings fresh and diverse delegates to the NomCom with new ways of looking at things and renewed vigor.

3. Our Input into the NomCom Standing Committee Charter.

The At-Large Community and the ALAC support the creation of a NomCom Standing Committee to provide continuity across annual NomCom cycles and to build the institutional memory of the NomCom. We feel that this is an excellent idea and can

really help solve some issues and for recommendations made from past NomCom to be carried over to the next NomCom. It would also allow some red flags and other problematic issues to be dealt with and not have to reinvent the wheel each year. Allowing for continuity of recommendations across NomCom Cycles is an excellent idea as suggestions and improvements can be sent to the standing committee and they can collect them and ensure that the same mistakes are not made and that people learn from them. They can also carry forward a series of best practices from year to year.

4. Our input into the requested changes to Article 12 related to the RSSAC?

The ALAC and At-Large Community support this change to the Bylaws. We had already supported converting the Root Server System Advisory Committee (RSSAC)'s delegate to a voting role and this change in the bylaws will enable this to occur.

Conclusion

The At-Large Community and the ALAC thank ICANN org for the opportunity to provide its input on the proposed amendments and look forward to reading the comments by other individuals and communities.

[Proposed Renewal of the Registry Agreement for .NET](#)

The ALAC appreciates this opportunity to comment on the proposed renewal of the .NET registry agreement. While the At-Large Community, as represented by the ALAC, is supportive of the majority of updates to the .NET contract, there are several areas of concern.

One area of potential concern in the draft new contract is the language granting the registry the right to obey takedown orders from national governments with relevant jurisdiction. While the ALAC recognizes the need for companies to adhere to government demand and court orders, and this new clause is unlikely to change registry behavior, the question arises whether the community is sufficiently informed of the frequency and significance of such orders. Accordingly, the ALAC would like to propose the following:

ICANN, in conjunction with the contracted parties, should explore the development of a disclosure framework for court and government ordered domain takedowns.

The ALAC also notes that many of the revisions, to the .NET contract, originated as language in the Base RA agreement. This begs the question what other language from

the Base RA should find its way into the .NET RA and what barriers exist to migrating the .NET contract to the Base RA. To this end, the ALAC would like to propose that:

ICANN should prepare a detailed comparison of the .NET and Base RAs with an eye towards the global public interest.

During the transition of .ORG to the Base RA, removing their price caps, the Board indicated that such migration is in the global public interest. The result of a detailed 2 of 4 comparison of the Base RA and the .NET RA might reveal a path to the eventual migration of .NET to the Base RA but more likely will identify language and provisions in each that would benefit the other. Two potentially significant items revealed themselves with a cursory comparison of the two agreements.

First, there appears to be a disparity between the two agreements in what the community might consider to be the most important section: Consensus Policy. In the .NET RA, the outer bounds of consensus policy (the picket fence!) are defined in section 3.1(b)(iv). The phrase “Security and Stability” is used twice in Section 3.1(b)(iv)(1) and 3.1(b)(iv)(3). In each instance, the phrase appears using the uppercase “S” which is defined in Section 3.1(d)(iv)(G). That definition is extremely narrow and appears to focus on registry services.

The corresponding language in the Base RA, drafted many years later, contains similar provisions but with a subtle difference. In Section 1.2 the phrase “security and stability” is again used twice. However, for the first time in Section 1.2.1, it is in lowercase, whereas in Section 1.2.3, the relevant words in the phrase are capitalized. The use of lowercase “s” in security and stability in Section 1.2.1 seemingly exempts the terms from the narrow definition and provides the ICANN community with a broader mandate within which it can impose Consensus Policy. There is even language in the Base the RA calls out the importance of capitalization of terms.

So while it’s possible that this is merely an accidental distinction, it has potential significance in the future. Accordingly, the ALAC would recommend:

ICANN should explain why “security and stability” were not capitalized in section 1.2.1 of the Base RA. If intentional, ICANN should explore making this update to the corresponding language in the .NET RA.

Another potentially significant area of disparity between the agreements is the language surrounding economic studies. Section 2.5 of the Base RA requires the Registry Operators to “reasonably cooperate” with any ICANN org “economic study on the

impact or functioning of new generic top-level domains on the Internet, the DNS or related matters.” Neither Verisign’s .NET or .COM RA appears to contain a similar provision, although these two TLDs account for approximately 80% of the global gTLD market.

ICANN should explain why this requirement to cooperate is not included in the .NET RA.

There are several aspects of the domain name market that directly impacts ICANN Org’s own economic well-being as well as its authority to impose bottom-up consensus policies on the contracting parties. Therefore, ICANN Org should be looking at the following trends within the domain name marketplace: e.g. impact of vertical integration, growing 3 of 4 consolidation in registry operator and registry service provider marketplace, secondary domain name market, the role of resellers, privacy/proxy service providers, and the impact of new gTLD on retail domain name pricing. Accordingly, the ALAC recommends that:

As part of its upcoming five-year strategic plan, ICANN Org needs to undertake a comprehensive economic analysis of the domain name marketplace.

Again, the ALAC appreciates the opportunity to comment on the proposed changes to the .NET RA and have taken the opportunity to suggest others which may be prudent.