

ALAC Updates ----FEB / MARCH 2021

Policy development activities

Statements approved by the ALAC

[ALAC Statement on IANA Naming Function Review: Recommendation for an IANA Naming Function Contract Amendment](#)

The ALAC appreciates the opportunity to comment on the IANA Naming Function Review: Recommendation for IANA Naming Function Contract Amendment as drafted by the IANA Naming Function Review Team.

The ALAC encouraged the ICANN Board to fulfil their initial report recommendations in our response to the IANA Naming Function Review (IFR) Initial Report, and as this Contract Amendment is recommendation #4 of the report, we support it.

Please note that ALAC support for this proposed contract amendment is premised on our acceptance of the IFRT's rationale that it seeks to remove a now operational impracticality arising from a legacy statement from the NTIA contract (i.e., to eliminate redundancy).

[EU Directive on Security of Network and Information Systems \(NIS 2 Directive\)](#)

As currently written, there are a number of gaps that will not allow NIS2, and particularly Article 23, to fulfill its intended function.

The key issue is that NIS2 focuses on TLD registries but for most gTLD registrations, the registration data is not collected or stored by registries, but rather by registrars, resellers and privacy/proxy providers (P/P-P).

- For most registrations, the registration data is not held by the registry, but by the registrar.
- Many registrars have “resellers” and it is these resellers that interact with the registrant.
- Resellers may themselves have resellers. These 2nd -order resellers have no direct link to or contract with the registrar and in fact, the registrar may not even be aware of them. There is no limit to the depth of this reseller chain.
- Some or all of the registration data may never be stored by (or even presented to) the registrar. It will be held by a privacy or proxy provider. A proxy provider will not pass on either the name of the real registrant or their contact information. A privacy provider protects only the

contact data. A P/P-P may be an affiliate of the registrar or reseller, or a completely separate entity.

- For a P/P registration made through a reseller only the reseller or the P/P-P can verify the accuracy of the registration data.

In short, focusing primarily on TLD registries will miss the bigger picture. Moreover, not explicitly referencing the other participants may allow them to be excluded from future ICANN policy and Member State legislation.

To remedy this:

- Registrars must be explicitly defined in Article 4.
- Resellers and P/P-P must be included in Article 4, either as separate definitions or explicitly integrated into the definition of registrar.
- Article 2 on Scope must ensure that registrars, resellers and P/P-P are subject to NIS2, regardless of size, just as it does for registries.
- Registrars, resellers and P/P-P must be classified as essential or important services in Annexed I and II. It is these entities that collect, store, publish and release registration data in almost all cases. They must be subject to the supervision and penalties described in Articles 28-34. If there are not clear and dissuasive penalties for all players in the registration process, then Article 23 becomes meaningless [the fact that some registrars may run DNS servers and thus be considered essential is not sufficient].

Other Issues

Undue Delay: Article sections 23.4 and 23.5 make reference to “without undue delay”. Although the ALAC understands the EC desire that NIS2 remain high level and leave specificity to the Member States, the potential for misinterpretation here is too great. As an example, the draft ICANN policy for an URGENT request (imminent threat to human life or critical infrastructure) allows of up to 3 calendar days in some cases. Other requests allow a mean (not maximum) response time of up to 10 business days (2-3 weeks).

Publication: Article 23.4 calls for the publication of specific registration data. The form of publication must be specified, presumably via publicly accessible Internet access and without charge.

Accuracy: Article 23 calls for the collection and maintenance of accurate and complete registration data usable to identify and contact the domain name holder. Since privacy advocates and registrars believe that the data subject is the sole judge of “accuracy”. A clear requirement that these data items must be verified as accurate should be included.

Summary

The ALAC appreciates the NIS2 initiative in regard to ICANN-related services and thanks the European Commission for this opportunity to submit comments. NIS2, with appropriate enhancements as described here, has the potential to greatly improve Internet security and the ALAC looks forward to its adoption.

[ALAC Statement on Draft FY22-26 Operating & Financial Plan and Draft FY22 Operating Plan & Budget](#)

Thank you for the opportunity to comment on the Draft FY22-26 Operating & Financial Plan and Draft FY22 Operating Plan & Budget.

We congratulate the ICANN Finance team for the continuous improvement of the Operational Plan and Budget, and for including some of the comments received in previous years, as well as the inflation adjustments and income forecasts.

Of utmost importance, the ALAC wishes to express our concern regarding the allocation of staff resources needed to support the full implementation of the At-Large Review Implementation. As noted in the At-Large Review Implementation Final Report, which was accepted by the ICANN Board on 10 September 2020, Issue 2 on Member Engagement and Criteria focuses on mobilizing members of At-Large Structures (ALSes) and individuals to engage more fully in policy development activities as well as to meet new criteria, expectations and reporting requirements. Recognizing that these activities would require additional support, a request for additional staff support was included in Issue 3 of the At-Large Review Implementation Final Report. We were provided with a very productive part time support resource for several months. However, given that the new requirements are now ready to be implemented, we believe that at least a partial full time staff support resource is required on a permanent basis. This staff resource would be responsible, in part, to manage the growing number of ALSes (currently 250, plus 143 individuals and 20 Observers), including keeping track of the members, monitoring that they meet the reporting criteria, engaging with them as needed, and ensuring they receive the information required to fully engage in the At-Large policy development activities according to the new expectations.

We continue our comments with this well known dictum, generally attributed to Albert Einstein:

“Everything that can be counted does not necessarily count; everything that counts cannot necessarily be counted.”

This is a budget document, which naturally involves a great deal of counting. But the document goes well beyond the numbers. It offers both ICANN’s financial and operating plan - complete with strategic goals, targeted outcomes and progress tracking. We realize that data (i.e. numbers) need to be collected in the process of evaluating the progress of various initiatives described in this document, but the work should not stop there. There is not enough emphasis placed on qualitative data collection in the tracking of progress. There should be an effort made

to take deeper dives into the meaning of the data collected. The numbers alone only tell part of the story; they are only one way of understanding progress, or lack thereof.

Budget

We feel the amount dedicated to Operating Initiatives is low, only 24.5 million USD in 5 years, especially if those are the initiatives in place to fulfill the Strategic plan FY21-25. We understand that some other items within the Operating Initiatives are included in the core budget under different heading, and this needs to be clarified as these initiatives are ICANN org's top priorities.

Funding

The current Budget illustrates a trend of less contracted parties every year, but then we see an increase in transactions. If there is indeed a decrease in the number of contracted parties, this should result in lower yearly fees to ICANN, but the budget is showing no impact in the funding which is expected to grow each year. In addition, the cancellation of several events due to the global pandemic means that significant costs were not incurred this year. Since funds cannot be carried over from one year to the next, we seek clarification on what happens to these surplus funds. Do they go to the reserve fund? Do they go to other items in the strategic plan? We understand that the Board makes this determination, but it would be helpful if this would be clarified.

Expenses

For 2-3 years headcount has been at 405, but the actual totals have been steady at 390-395, which creates a "save" in costs at the end. The question is, will ICANN really increase to 405 in FY22 and 410 from FY23 to FY26?

Travel & Meetings

For the first ICANN Meeting there appears to be no provision for COVID-19 tests, nor in the second stage of the ICANN Meeting strategy with regional hubs.

The ALAC also has concerns about the future cost of travel once we go back to in-person (F2F) meetings, as airlines around the world are struggling with debt. Currently, airlines have canceled or stopped operating many routes and have also reduced the connections to other countries. It is unclear when these routes will be reinstated and at what cost. We can also assume there will be additional layovers due to reduced connections, among other impacts. As such, it is prudent that ICANN allocate more money to the travel budget to cover the likely increase in costs of travel to these meeting locations.

Cost Savings

This item is a "new" line item, but there is no breakdown of what it contains, making it difficult to understand what it covers. For example, how much is forecasted to be expended in the breakdown?

According to the Finance team, the extra financing of the reserve fund will be complete by the end of FY21. It is not clear what the Finance strategy for contributing to the reserves will be, and so we are seeking clarity on this. From a Finance perspective, the amount of the allocation to the reserve fund should be the delta increase between one fiscal year and the next, in order to comply with the Board mandate to have a reserve fund equivalent to at least one-year operational budget. This is valid not only for FY22, but from FY23-FY26. Allocations shown do not seem to follow this rule.

At-Large General Assembly Request and 5 Year At-Large Roadmap

The EURALO General Assembly is currently scheduled to take place face-to-face in FY21 during the EuroDIG meeting scheduled for 28-30 June 2021. However, with the continuing spread of COVID-19 throughout Europe, there is uncertainty on when face-to-face meetings will be able to be held safely. With this in mind, the ALAC Chair, Maureen Hilyard, and EURALO Chair, Sebastien Bachollet, have requested that ICANN org and the ICANN Board, include funding for a rescheduled face-to-face EURALO General Assembly in the FY22 Operating Plan and Budget, in the event that the FY21 EURALO General Assembly is unable to take place in person.

Additionally, if the EURALO General Assembly will be rescheduled to FY22, EURALO also asks that the approved FY21 Additional Budget Request (FY21-33) for Training at the FY21 EURALO General Assembly consisting of partial approval for one (1) additional hotel night and applicable per diem for EURALO travelers already funded to the General Assembly also be included in the General Assembly budget.

Also, we wish to inform you that the At-Large community has developed a new 5 year cycle of At-Large Summits and RALO General Assemblies. This new 5 year plan follows on from the previous 5 year At-Large roadmap noted in the FY18 Five Year Operating Plan Update, which the Board approved. Following the Third At-Large Summit in 2019, each RALO has scheduled a General Assembly over the next four years. We ask that ICANN org take the appropriate actions to ensure adequate funding for these events.

Evolve and Strengthen the Multistakeholder Model to Facilitate Diverse and Inclusive Participation in Policy Making.

Operating Initiatives (p. 23-27 Five year operating plan / p. 193-198 One year operating plan)

The ALAC acknowledges the ongoing work developing approaches and solutions towards improving ICANN's multistakeholder model - especially around prioritization of work, efficient use of resources, and precision in scoping the work. We appreciate the particular focus in this

draft budget on facilitating diverse and inclusive participation - one of the key issues identified by the community as urgently in need of attention.

On Reporting

We begin our comments here at a more general level. As was already pointed out by the ATRT3 team, there is no single tool or reporting mechanism which keeps all stakeholders informed about progress on the full set of issues identified during community discussions. There is no single source of information showing progress on initiatives and there is no overall strategy to recognize efforts, especially community-led efforts. For example, the EURALO-led European Roundtable at the ICANN69 and at their monthly meetings is an excellent example of a community-wide activity - but there is no place to recognize this as a contribution toward resolving the MSM issues, particularly around silos and trust.

To address this gap, we suggest a regular inclusive (i.e. all issues) progress report to stakeholders including a call-out to the community for contributions. A tool similar to the five year rolling community-led roadmap attached in Appendix A on policy, reviews and cross-community working groups (p.344-345 of the draft budget) could also be considered.

On Evaluation

In the October 2020 report, “Enhancing the Effectiveness of ICANN's Multistakeholder Model”, the ICANN Board proposed that an ongoing evaluation method be connected to the strategic objective regarding the effectiveness of ICANN’s multistakeholder model of governance:

“The evaluation method used can be both objective and subjective. From an objective perspective, the evaluation method can be used to track and review progress of the actions being implemented, including those that are community driven. Further, the evaluation method used can also include more subjective metrics such as whether consensus is better understood because of new tools, such as PDP 3.0, and thus are more achievable.”

The ALAC believes that, in meeting the strategic goals and targeted outcomes listed on p.27 and p.194 of this document, progress should be evaluated in a holistic manner - i.e., including both qualitative and quantitative measures. Total reliance on objective methods would stunt our understanding of progress on various levels. We suggest that there should be rolling goals with targets at the end of the five year period and a recognition that flexibility is essential over that time. As we have seen with the pandemic, unexpected events can quickly require a shift in focus.

Tracking progress

As suggested at the beginning of this ALAC statement, there needs to be more space created for qualitative data collection in the evaluation of strategic initiatives. This could be in the form of facilitated focus groups (these could be virtual) designed to take deeper dives into the meaning

of the data collected through surveys, etc. For example, any current statistics on participation and diversity will be colored, for better or worse, by the impact of the pandemic. The numbers alone only tell part of the story.

A report documenting progress on the targeted outcomes listed in this draft budget should be issued regularly

Resources and proposed activities for FY22

Where the one-year operating plan suggests formalizing support for collaborative work by community leaders across the SOs and ACs and with ICANN org (p.195), we hope this could be expanded to include facilitated discussions and community-led focus groups including analyses and reporting of results of discussions on the evolution of the multistakeholder model.

We reiterate that the collection of statistics is only one way of understanding progress, or lack thereof, on the issues.

We also note that there is no specific budget for items listed as outcomes in the operational activities regarding evolving the multistakeholder model. We would welcome some clarification on how the community can engage with these outcomes without any indication of available resources to do so.

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Accessibility Issues

The ALAC requests that ICANN Planning and Finance teams be mindful of accessibility issues when posting documents. After reading the reports, we noticed several of the tables contained in the PDF documents were not posted as actual tables, but as images. When tables are posted as images people who are blind or have low vision and who use screen readers cannot read these documents. ICANN should ensure that they follow the Web Accessibility Guidelines established by the World Wide Web Consortium (W3C) and the Web Content Accessibility Guidelines, WCAG 2.0 or later. Many of the figures and tables used in the document do not contain ALT text describing the table or figures. Besides these issues there are a number of other accessibility problems with the reports such as: Poor Color Contrast, lack of any Accessible Bookmarks, Headers, Tab Order, Logical Reading Order, Document Language and Titles.

All these three items have simple fixes but need to be taken into account when creating the PDF, Word or Excel Document. In fact, many of these can be fixed automatically or done manually with little effort. An At-Large member will post a separate, more detailed comment on these accessibility issues, but we also want to highlight these issues in this ALAC statement.