ORIGINAL: English

SUBMISSION DATE: May 5 2008

STATUS: Final

At-Large Advisory Committee Statement.

To the ICANN Board on the Board Governance Committee's Recommendations for Improvements to the Generic Names Supporting Organisation.

To be read in conjunction with the joint statement between GNSO communities and the ALAC, which was a collaborative effort of the Ad-Hoc Working Group on GNSO Improvements composed of members from all five Regions of the ALAC (i.e. RALO and/or NomCom Appointees), and representatives from the other User Constituencies in ICANN, previously transmitted to the GNSO Improvements comments list on behalf of this cooperative on or about 23rd April 2008, a copy is found (for easy cross reference with this document) in PDF format, from this link.

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 (BGC) 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;
- Devolution of decision-making on substance has been in the process of implementation through several mechanisms, including via working groups, 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, at http://www.atlarge.icann.org, has just gone live; while it is still being configured and a new menu system and new content is being added, 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, albeit in a somewhat different context and scale.

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 favor 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 only represent the existing uneven geographic 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-fluent English 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. 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.

3. 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 utilized 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.

The ALAC has joined with others in supporting the [Joint Proposal from the User Community for GNSO Council Structural Change](#). The objective of this statement is to set at a high-level the principles and basic tripartite structure of the GNSO which we believe that the Board of Directors should endorse. The Joint Proposal clearly states that if the Board does accept this basic structure, the relevant communities will then need to decide how to organize their engagement within the three groupings that the Joint Proposal endorses.

Accordingly, we would like to state the following points in relation to the engagement of the At-Large in the Non-Commercial Interest Group as proposed in the Joint Proposal:

1. The At-Large community as a whole will need time to decide amongst itself how exactly its participation in the new Non-Commercial Interest Group will be structured and the relationship that this representation should have within the At-Large Community.

2. As the representative of the Internet end-user in ICANN, At-Large would not accept anything less than 50% of the voting power of the Non-Commercial Interest Group.

3. The Joint Proposal specifically does not mention ALAC, the Advisory Committee, by name as the vehicle for participation of At-Large in the Non-Commercial Interest Group. The drafters of the statement were of the view that the direct involvement of an Advisory Committee to the Board as a component of a constituency in the GNSO would potentially have legal complexities in respect of the Bylaws and the organisation of ICANN which could be problematic. However, there are those within At-Large who do believe that ALAC is the right vehicle for participation in the GNSO, and so we wish to make clear that this, alongside all other elements of At-Large participation as a voting part of the GNSO, would need to be left as a possibility until the community has had time to review the options and take advice as it might wish.

The GNSO restructuring should create the broader basis for policy development that is one of the key outcomes intended from the review process. In our view that broader basis is not possible without the direct, voting participation of At-Large in the GNSO.

We think there are still other problematic issues impacting all parts of the GNSO's stakeholders and their engagement in the GNSO post-restructuring that must be thought about beyond the above questions. For instance:

1. Some stakeholder communities may feel that they naturally 'belong' to more than one major subgroup.

2. 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.

3. The BGC report notes that under the existing system new constituencies could form – but that didn't happen. It is not intuitively 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.

4. 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 and implementing new approaches to 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_2

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.

Transmitted (via email) on behalf of the ALAC,
by Cheryl Langdon-Orr
ALAC Chair 2007-2008.