

To: Tripti Sinha, ICANN Board Chair

CC: ICANN Board of Directors

From: Jonathan Zuck, ALAC Chair; Maureen Hilyard and Joanna Kulesza, ALAC Vice Chairs

Date: Thursday, 19 January 2023

Re: ALAC Comments and Concerns on the New Generic Top-Level Domain (gTLD) Subsequent Procedures Operational Design Assessment (SubPro ODA)

The At-Large Advisory Committee (ALAC) thanks ICANN org for its enormous effort preparing the ODA. While analysis of the ODA is ongoing, we thought it worthwhile to provide some high-level commentary, in the run up to the ICANN Board discussion of the ODA. Outlined in this letter are a number of high-level comments and concerns related to ALAC priority topics covered by the ODA as well as specific concerns regarding the differences between Option 1 and Option 2.

Ahead of ICANN76, the ALAC is conducting an analysis of the ODA in comparison to its 2021 [Advice](#) to the ICANN Board on Subsequent Procedures and its related [response](#) to the ICANN Board's Clarifying Questions. The objective of this analysis was to review several key priority topics and identify

- Areas where further discussion is needed, and/or topics we thought might be clarified by the Operational Design Phase (ODP) process but were not.
- Problematic assumptions made in developing the ODA.
- New issues raised in the ODA for the ICANN Board to consider.

Areas where further discussion is needed:

1. **Metrics.** The ALAC seeks clarity on metrics for Applicant Support and DNS abuse. How will ICANN identify/rate success?
2. **DNS Abuse.** The ALAC expects to see a decrease in the levels of DNS abuse prior to the beginning of the new round. We believe the ODA correctly addresses the need for the ICANN Board to take into account community advice on DNS abuse, such as the ALAC's [Advice on DNS abuse](#), prior to a new round.
3. **Geographic Names at the Top Level.** The ALAC supports the Governmental Advisory Committee (GAC) request for a notification system; however, requests that this system be expanded.
 - a. Can a notification system apply to the broader community, not just the GAC?

- b. Initial examples of why this system should be expanded in the interest of end users include the protection of indigenous, politically persecuted groups, and/or minority communities.
4. **Auctions.** The ALAC shares the ICANN Board's concern regarding the risk of gaming
- a. The ALAC supports the ICANN org suggestion to seek third-party expertise in auction design not only to assist in determining supplemental methods to disincentivize gaming but also effectively address the use of the bona fide intent affirmation mooted in the SubPro policy development process (PDP).
 - b. The retention of a second-price sealed bid auction in ICANN-run auctions of last resort still leaves a lot to be desired if we want to increase competition by leveling the playing field for less-well-resourced applicants. The ALAC still favors a Vickrey auction, at this time.

Problematic assumptions made in developing the ODA:

5. **Applicant Support.** The ALAC welcomes efforts to increase awareness of the Applicant Support Program, as well as the provision of resources to boost its chances of success. However,
- a. Explicit goals allow for better program design.
 - b. ICANN org's proposed Applicant Support Fund of USD\$2mil is likely inadequate
 - c. We support and are prepared to assist in the implementation of the suggested "pre-round" evaluation of Applicant Support applicants.
6. **Community Priority Evaluation (CPE).** At-Large volunteers contributed significantly to the development of recommendations and implementation guidance on CPE ***after*** the Draft Final SubPro Report of September 2020 was published for Public Comment. These recommendations go some way towards addressing the objectives of CPE, avoiding gaming/misuse of CPE, and misalignment of CPE with the diversity of communities.
- a. There remain several major omissions which will curtail intended improvements to CPE.
 - b. The ALAC supports the ODA's suggestion to allow community-based applicants to apply for change of string address contention sets. However, there may be a need to establish criteria to govern the eligibility of applicants and/or the alternative strings sought, beyond the Application Change Request procedures which would apply based on the SubPro Outputs.
 - c. We will address our concerns regarding the CPE with the ICANN Board in more detail.

New issues raised by the ODA:

7. **Option 1 versus Option 2.** The ALAC is concerned that ICANN org has inadvertently created a false dichotomy with the presentation of two options. This has certainly spurred community discussion and ideally will lead to a more nuanced outcome.

The ALAC appreciates that Option 2 proposes a shorter 18-month implementation timeframe that would likely appeal to parts of the ICANN Community. The batched application process might make course correction easier. However, we are concerned that the condensed implementation timeframe risks a deferment of several key priority areas that affect end users.

The ALAC would like assurances that Option 2 will not translate to a deferment of action on Internationalized Domain Names (IDNs) variant management policy, community advice on DNS abuse, Competition, Consumer Trust and Consumer Choice Review Team Recommendations, Closed Generics, Applicant Support, and the Name Collision Analysis Project (NCAP) studies. The ALAC requests that these areas are accounted for under Option 2. Failing that, it would appear that Option 1 is the most prudent path to take.

It is unclear how the multi-cycle application process under Option 2 would impact different TLD type applications. For example, might acceptance of applications for IDN variant TLDs be deferred to one of the later cycles? Would a round devoted to “brands,” impede on efforts by communities to stake their claims?

Next Steps

The ALAC intends to supplement our Advice to the ICANN Board on Subsequent Procedures, which we expect to do before ICANN76.

The ALAC would welcome an opportunity to discuss these concerns during a joint call before ICANN76 and/or during our ICANN76 bilateral session.

Sincerely,
Jonathan Zuck, ALAC Chair
on behalf of the ALAC and At-Large Community