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ICANN

Independent Review of the At-Large Advisory Committee

Report to The Internet Corporation for Assigned Names and Numbers

Prepared by Westlake Consulting Limited

Final Report – 25th July 2008

1   Summary

Introduction

The Internet Corporation for Assigned Names and Number (ICANN) Bylaws define the purpose of the At-Large Advisory Committee (ALAC) as being:

> 'To consider and provide advice on the activities of ICANN, insofar as they relate to the interests of individual Internet users.'

The Bylaws require an independent review of the performance and operation of each arm of ICANN every three years. The goal of each review is to determine:

1. Whether that organization has a continuing purpose in the ICANN structure; and

2. If so, whether any change in structure or operations is desirable to improve its effectiveness.

ICANN announced on 10 February 2008 that it had appointed Westlake Consulting Limited (WCL) to conduct the first such independent review of the ALAC.

WCL Review Team members attended ICANN's February 2008 New Delhi meeting, where they interviewed a significant number of people about the ALAC. After the New Delhi meeting, WCL has conducted extensive further research and interviews and has received email feedback and comments from a range of people. WCL Review Team members presented their draft report at ICANN's June 2008 Paris meeting and they have produced this final report, after considering comments and feedback both at and after that meeting.

The Review Working Group set up by the ICANN Board intends to deliver its draft recommendations at ICANN's November 2008 meeting, in Cairo, and its final report in time for Board decision at ICANN's first meeting of 2009, in Mexico City.

The WCL Review Team members drew on the information gathered and their experience in governance roles in commercial and non-profit organizations in order to draw conclusions and make recommendations about the purpose, structure and operations of the ALAC.

History of the ALAC

In March 2003 the ICANN Board resolved to create the Interim ALAC as a transitional arrangement progressing to the ALAC structure. At-Large Structures (ALSs) representing individual Internet users would form five geographically-based Regional At-Large Organizations (RALOs). These in turn would appoint 10 of the fifteen members of the ALAC, the other five being appointed by the Nominating Committee (the NomCom).

The main process of institution building – certifying the ALSs and forming the RALOs – was completed in early 2007 with the establishment of the final RALO. Since then the ALAC has

been in its current form, which we refer to as 'ALAC 1.0', as we have distinguished it from the Interim ALAC. This report provides a largely forward-looking review of ALAC 1.0.

Purpose of the ALAC

In our view, the ALAC serves two purposes:

- To provide an opportunity for individual Internet users to participate in ICANN's activities; and

- To be a vehicle for ICANN's accountability to the Internet community in accordance with its core values and its bottom-up, consensus-based method of operation.

We note that ICANN itself has a relatively narrow purpose, which in brief is to coordinate the Internet's naming and numbering system so that computers can find and communicate with each other. Nevertheless, we consider that ICANN's activities affect individual Internet users, who have a right to contribute.

Structural options

During the course of our interviews and information gathering, we considered several options presented to us, including the following:

1. Convert the ALAC from an Advisory Committee to a Supporting Organization (ALSO);
2. Set up the ALAC as a constituency within the Generic Name Supporting Organization (GNSO), either as an extension of the Non-Commercial Users Constituency (NCUC) or as a separate constituency;
3. Merge the ALAC with/into the Internet Society (ISOC);
4. Channel individual Internet user participation through the ICANN Ombudsman;
5. Integrate the ALAC and the Nominating Committee (NomCom);
6. Abolish the ALAC and allow involvement directly from individual Internet users or the ALSs; and
7. Abandon attempts to involve individual Internet users who are not part of other constituencies such as domain name registries or regional Internet registries;
8. Retain the status quo.

The WCL Review Team considers that 'ALAC 1.0' as it has existed for the last year has the structures, the mechanisms and the leadership to play an influential role, and that its future success now depends on how well it seizes the opportunities it has in order to make itself heard.

Geography

The regions the RALOS are formed from are allocated according to ICANN's geographic regional structure, which is not well aligned with global population distribution and which is increasingly unrepresentative of world-wide Internet usage, as illustrated by the following:

- The Asia-Pacific region, as defined by ICANN, makes up more than 60% of total world population, yet represents only one of ICANN's five geographic regions;

- China is now estimated to have more Internet users than the USA, this number having grown approximately nine-fold since 2000; and

- Internet penetration in the large countries of Asia is only around 15-20%, and therefore has considerable growth potential, while in Europe and North American penetration is already more than 70%.

We have **recommended** that regional balance can be addressed to some degree by increasing the number of NomCom appointees to the ALAC by two members, both of whom would be from Asia, and that this change be reviewed at the next triennial review of the ALAC.

ALAC influence

The channels through which the ALAC exercises its influence are tortuous but extensive:

- The ALAC appoints five of the 17 voting members of the NomCom (nearly 30%). This gives the ALAC significant, although indirect, influence over appointments to most of the policy-setting units of ICANN, and the Board;

- The ALAC appoints Liaisons to the Board and other parts of ICANN. Through this mechanism, the ALAC can participate in most of the key policy-making processes, although Liaisons do not have the right to vote.

We have **recommended** that the current structures, which have taken several years to build, should now be given the chance to demonstrate their value. However, we have also **recommended** that the role and continuation of the RALOs should be reconsidered at the next review of the ALAC, with a view to simplifying the complex structure by which individual Internet users can participate.

Board Liaison

The WCL Review Team received several submissions relating to the ALAC's lack of a voting position on the Board of ICANN. The arguments have ranged between two extremes:

- The ALAC needs to be able to vote at the Board in order to exercise real influence; and

- The debate over a vote is a diversion from the substantive question of how the ALAC and its Liaison should best contribute to the Board's decision-making process.

In our experience, effective Boards make most of their decisions through a consensus-building process, rather than the mechanism of a formal vote. If the ALAC Board Liaison had a right to vote, this might lead to a reduction in consensus-building in favour of a more confrontational, majority-seeking approach.

A further consideration in relation to Board voting was over the Duties of ICANN Directors:

'... To act in what [Directors] reasonably believe are the best interests of ICANN and not as representatives of the entity that selected them ...'

The ALAC Liaison to the Board can participate in Board affairs and receive all Board information, but retains a total commitment to representing the ALAC cause. If this Liaison became a voting board position, the influence of the ALAC would be diluted, rather than increased, since the member would have the duty (set out above) to act in the interests of ICANN and not as the representative of the ALAC.

We have **recommended** that the ALAC continue to appoint a Liaison to the Board, and that this person should not be a member of the Board with voting rights (i.e. no change from the current position). However we have also **recommended** that the Liaisons should be appointed for a term of two years.

How effective is the ALAC?

If one regards the years of the Interim ALAC as dominated largely by institution-building, with relatively little opportunity for contribution to development of policy, it becomes easier to understand the diversity of opinions about the ALAC that we have received, for example:

- 'The ALAC is a complete waste of time.'

- 'ALAC has made significant improvement over the past 1-2 years.'

- 'It has always puzzled me whether ALAC has any substantial agenda.'

- 'The ALAC is the conscience of ICANN.'

Many of the opinions we received appeared to relate to the Interim ALAC and were therefore of varying relevance to 'ALAC 1.0'.

The WCL Review Team noted some favourable comments about the ALAC's recent contribution in areas of policy development, but the perceptions were still at best mixed. We have **recommended** that the ALAC improve its effectiveness by establishing formal planning processes. This should articulate what the ALAC was trying to achieve, how it would do so and how it would be assessed. In turn, this should build credibility more across ICANN as well as provide greater internal clarity of purpose for its members, including the RALOs and ALSs.

We have noted that the level of ICANN staff resource dedicated to the ALAC is still low, despite an increase in the last few months.

We have **recommended** increases in dedicated staff support for the ALAC, by up to one full-time person per region and that the ALAC Chair negotiate annually a support agreement with ICANN staff.

Outreach

A significant proportion of certified ALSs appear to be inactive and very few have been certified in the last year. One credible explanation for this is there is little incentive for active involvement unless ICANN makes greater efforts to communicate with and involve them. We note that ICANN has recently taken steps to address this situation, including creating brief position papers on policy matters and making progress in language translation.

In the view of some submitters, a number of barriers to greater individual user participation remain, including:

- Short turn-around times required in policy development processes;

- Technical complexity of some of the big policy issues;

- Inadequate access to the Internet in some parts of the world;

- The extended, and often robust, nature of discussions on some of the At-Large Email lists, a style which does not sit comfortably with some cultures; and

- Language remains a barrier for some.

We have **recommended** a number of ways in which ICANN and the ALAC might address these issues and provide more effective web-based tools for individual user participation.

Conclusion

The WCL Review Team considers that 'ALAC 1.0' has made significant progress in recent months. We observe that some members of the ICANN community continue to question the need for the ALAC and are sceptical about the value it provides.

We therefore **recommend** that:

- The ALAC should continue to contribute actively to ICANN's policy development processes;

- ICANN's outreach activities must be made consistently relevant to the needs of individual Internet users throughout the world; and, finally,

- The ALAC must ensure that it is seen within ICANN as being a valuable component of the total ICANN structure.

The WCL Review Team is left with a question that it is at this stage unable to answer. Individual Internet users increasingly regard the Internet as essential (and largely invisible) infrastructure, similar to telephones, electricity and postal services. As long as these continue to function, most users do not give them much thought. Therefore, while we recognise the significant resources and effort that have gone into developing the At-Large structures, the question remains: is there sufficient interest, among the 1.4 billion individual users of the Internet, for them to participate in the specialized technical role of ICANN?

We believe that there are valid reasons why the individual Internet user should care about ICANN. It remains to be seen over the next few years whether they care enough to participate in ICANN through the ALAC.

1.1 Recommendations

Recommendation 1

That the number of NomCom appointees to the ALAC should be increased from five to seven, and that this structure should specifically be revisited at the next triennial review taking account of the then existing Geographic Regional Structure of ICANN.

Recommendation 2

That all members of the ALAC (and, ideally, of the RALOs) should be given clear position descriptions.

Recommendation 3

That the current distribution of the RALOs be left unaltered until at least the next ALAC review.

Recommendation 4

That ICANN should implement an activity-based costing system in order to improve resource management.

Recommendation 5

That ICANN should provide further resourcing to support the ALAC, to the extent of (up to) one new employee per region.

Recommendation 6

That the ALAC Chair negotiate an annual support agreement with ICANN staff, setting out agreed expectations and performance indicators.

Recommendation 7

The ALAC position on the Board should remain that of a Liaison, with rights to full participation and information, but no voting rights.

Recommendation 8

That the term of appointment of the Board and other Liaisons be extended to two years, subject to the ALAC retaining the 'right of recall' under the Rules of Procedure, Rule 11 - Recall Votes.

Recommendation 9

That ICANN staff should create a brief and multi-lingual guide to ICANN and the ALAC, aimed at individual Internet users and ALSs.

Recommendation 10

That the ALAC should develop:

- A simple annual Statement of Intent which specifies the current issues and priorities, objectives and activities for the next 12 months, and defines measures of success for each of the activities and objectives. This document should be strongly aligned to ICANN's Strategic and Operational Plans and be published on the ALAC website;

- Before the next ICANN annual planning cycle, the ALAC should develop a Strategic Plan of its own (complementing the broader ICANN Strategic Plan).

- Following the development of this Strategic Plan, the ALAC should then generate an annual Operating Plan which cites the activities and resources required to support the Strategic Plan during that year (also complementing the corresponding broader ICANN Strategic and Operating Plans and fitting the same planning cycle).

Recommendation 11

That the term of appointment of the ALAC Chair should be extended to two years.

Recommendation 12

That the ALAC should explore ways to differentiate between organizations that genuinely represent individual Internet users, and are therefore ALS candidates, as opposed to those which may be a better fit with the the NCUC.

Recommendation 13

That the ALAC should publish on its website trends in the average time taken from receipt of an ALS application to decision.

Recommendation 14

That regular ALS compliance reviews be conducted and the non-compliance provisions be applied as appropriate.

Recommendation 15

That ICANN should develop clear sanctions for non-compliance. These might include: ineligibility for ICANN travel funding; loss of voting rights; or being suspended until the matter is remedied.

Recommendation 16

That any outstanding issues relating to Ombudsman reports 05-1090 and 06-317, should be dealt with as soon as possible by the ICANN Board or the ALAC (as appropriate).

Recommendation 17

That the ALAC should develop a clearly defined process for the engagement of the At-Large community in developing policy positions.

Recommendation 18

That the ALAC should use multi-lingual wikis rather than the current email lists to allow the At-Large community to more easily observe and participate in the development of policy positions.

Recommendation 19

That ICANN should increase the public comment period to 45 calendar days in order to allow a greater time period for At-Large community consultation in all regions.

Recommendation 20

That the ICANN Board should amend the Travel Policy to pay for accommodation expenses (including breakfast and internet access fees) and where practicable accommodate At-large members at or very near the main conference venue. The per diem amount (to cover other appropriate daily expenses) should also be available as a cash advance for those that require it.

Recommendation 21

That private email lists should be used only for appropriate non-public discussion.

Recommendation 22

That ICANN should continue to work on its language policy, including translation and other services.

Recommendation 23

That ICANN staff should manage and maintain content of the various ALAC wikis.

Recommendation 24

That the ALAC should replace email lists with wikis for policy discussions in particular and continue the evaluation of Web-based tools to facilitate discussion and collaborative working.