Statement of the ALAC

On Affirmation Reviews Requirements and Implementation Processes

Introduction
By the Staff of ICANN

The Statement on the Affirmation Reviews Requirements and Implementation Processes was drafted by the Executive Committee of the At-Large Advisory Committee (ALAC) and published for community review on January 21st, 2010.

The document was further discussed during the monthly [ALAC teleconference on January 26th](#). The Chair of the ALAC asked Staff to start a five-day online vote on the document on January 27th, which resulted in the ALAC endorsing the Statement with a 14-1 vote. You may review the result of the online vote independently under:
https://www.bigpulse.com/pollresults?code=U7pLAWDerFWSGtC4xS2d

The present Statement is the official ALAC input on the Affirmation Reviews Discussion Draft and was transmitted to the public consultation process on February 1st with a copy going to the ICANN Board of Directors.

[End of Introduction]

ALAC Statement on the Affirmation Reviews Requirements and Implementation Processes

The ALAC supports the Affirmation of Commitment (Affirmation) review process, but has some very real concerns with the process that has been proposed as well as the timeline that the Affirmation committed to for the first review.

Review Team Size and Composition

The proposal suggests six to eight individuals per team (including the ex officio members). One of the rationales is well summarized by the excerpt from Box 5 (page 16/17) of the proposal:

It is important to remember that many team tools in decision making, problem solving, and communicating were created to take advantage of small-group dynamics. Consensus, for example, just does not work as a decision-making method in a team of twenty members.

This is an astounding statement to be found in a 2010 ICANN document, where the current wisdom is that ICANN policy should be developed by Working Groups of unlimited size, and that decisions should all be taken by consensus.

Regardless of the theory, it is difficult to expect that all of the diverse parts of ICANN to be reasonably represented by just five to seven people (outside of the ex officio CEO or Board Chair). In particular, it seems unreasonable to have very different parts of the organization being represented by a single person. Indeed, for groups such as the GNSO or the ALAC which have constituent parts with very different world-views, it will be close to impossible to have them fairly represented even with just a single individual, much less a fraction of one. A better target might be 12 people per team. The larger Review Team (RT) would also have a secondary benefit. In all such groups, some members are far more participatory than others. If one starts with only seven or so members, the effective loss of just one or two could be crippling.

There is certainly a budget implication to this, but using an average of the current budget hypotheses in the document, the review process will cost ICANN $256k per team (a number of great significance!) or $512k per year (four reviews performed every two years, or two per year on the average). That is well under 1% of ICANN's budget. Even doubling it is still a reasonable cost for verifying ICANN's effectiveness in the eyes of the world.

It would seem advisable to also allow the use of alternates on a RT. By allowing such participation on a "backup" basis for face-to-face meetings and teleconferences, and on a full basis for e-mail and similar interactions, more continuity and representation can be ensured.

Regarding the relative composition, the proposal in Figure 5 (page 18) of the proposal is a good start, although as noted above, it is somewhat sparse. There is a focus on government participation in the Affirmation, and accordingly, it explicitly gives a seat on each RT to the GAC Chair (or delegate) and additionally gives joint control over the entire RT member selection to the Chair of the GAC in consultation with GAC members.

The proposal is completely silent on the position of the Chair of the RT, and specifically if it should be a person who simply oversees the operation of the RT (an "administrative " chair) or if he/she is an active and contributing member of the team. The former can be problematic if that person is the only one representing a particular group within ICANN, and the latter can be very problematic for the orderly management of the team and its discussions.

The proposal is also silent on the role of the Board Chair or CEO within the RT. For them to be regular members seems somewhat inappropriate, as it is *their* operation that is being reviewed. Moreover, they are both in a strong position to lead the direction and tone of the review which would be completely inappropriate. One way to address both of these issues is to have the Board Chair/CEO be participatory observers on the RT, and take on the role of an administrative Chair while still being able to contribute their knowledge and insights.

Review Team Member Selection

The proposal and the call for applicants both ignore the critical issue of how AC/SOs are supposed to ensure that they are represented on the RTs. Such representation is a critical aspect of the reviews as defined in the Affirmation. The Call for Applicants highlights the problem:

- *Interested individuals are asked to apply through their Supporting Organizations or Advisory Committees by sending a short CV (maximum three pages) and a one-page motivation letter to the following email address: rtcandidatures at icann.org.*
- *This is a permanent call for applications; however, candidatures for the first review 'Accountability and Transparency' will be accepted until the 17th of February 2010 at midnight UTC.*
- *Applicants for this review will be informed of the result of their application by (tentatively) the 20th of February 2010.*

It is unclear how one could submit an application **through their Supporting Organization or Advisory Committee** but **send it directly to a central e-mail address.** The process does not provide any opportunity for an AC/SO to endorse an applicant prior to submission, and even if it did, there would be no ability to do a comparative evaluation of candidates. Moreover, the application gives no explicit indication of which AC/SO(s) the person is aspiring to represent

Ignoring for the moment the "tentatively" in the third statement, it would require a fair amount of magic to close off the receipt of applications on February 17, pass them on to the AC/SO (perhaps distributing them only to the "appropriate AC/SO using some unknown algorithm), have the AC/SO evaluate them and decide which to endorse, pass them back to the Board and GAC Chairs for final selection, and announce the results on February 20. Even if a week were added to the process, it would be difficult to imagine the AC/SOs being able to work with their constituents and act in the allotted time.

All of that notwithstanding, although the ALAC would like to identify exactly who it is that is representing them, it is probably reasonable that a small selection of candidates be endorsed to allowing the various attributes (gender, regional, skills, etc.) to be balanced by the RT Selectors.

Accountability and Transparency of the Accountability and Transparency Review Process

Given the tight timelines, the skills which will be needed within the RTs, the potential for very significant unequal power relationships among committee members (as per Box 4 on page 16 of the proposal), the lack of clear review methodology and the lack of support staff (other than that controllable by the Board Chair), one must call into question whether the outcomes of the first review will be acceptable and accepted by the community. There is a real potential for the process to be a charade.

It is noteworthy that although the "public interest" plays a major part in the Affirmation, it is nowhere defined. Anecdotal evidence indicates that the expression means very different things to different people and groups within ICANN. It is unclear how the RT will address this overriding issue.

Although there is a mention of one particular part of the review process being publicly broadcast, there is no general statement on whether most RT deliberations will be in camera or public, either in real time, or after the fact. In the interest of ensuring a completely candid evaluation, the ALAC supports discussions being held in camera, but reports (minutes but generally excluding the details of the conversations) must be made available at the earliest possible time.

Lastly, a uniform mechanism of reporting on individual RT member participation and performance would add to the credibility of the process.

Language

The document is silent on the subject of language with the exception of one vague reference to need to allow adequate time to get documents translated. At the very least, the proposal should state that the language of the reviews will be English, and that there be a requirement that all RT members can readily work in English (spoken and written). Any less will place an undue burden on other team members.

However, as an international organization that aspires to meet the needs of the entire world of Internet users, some comment on how the review process will integrate multiple languages must be included in the document. Specifically, the issues of translations of all review-related documents in a timely manner and the acceptance of comments in multiple languages must be addressed. Neither seem to be addressed in the timeline

Some comment on how these reviews (as well as other ICANN business) will be conducted in multiple languages in the longer term would be encouraging.