

ATRT2

Session with ALAC

Tuesday, 16 July

09:30 – 10:30 / Hall 2AB

Public Comments – Conclusions & Questions

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1. The ATRT2 is seeking to engage an Independent Expert to assess whether the GNSO PDP process is effective for developing gTLD policy within ICANN's multi-stakeholder environment. In your view, is the GNSO PDP working well, and if not, what needs to be done? Comments are welcome during the ATRT2 face-to-face meeting in Durban, and we are also seeking to identify people or groups that are interested in providing input to the Independent Expert.

I was not in Durban; thus, these comments cannot take into account other statements and advice which I have not yet seen.

In general the new gTLD process, as prepared by the GNSO PDP confirms that that is not an effective way of developing gTLD policy. *Verb sap!*

Allow me to suggest that the appointment of yet another review by an 'Independent Expert' sounds very much like a decision to kick the issue into the long grass. The issues and the problems are quite clear. It is the decision-making structure that is at fault.

2. The multi-stakeholder model presumes we can get substantive involvement from all stakeholders, including those who do not have financial interests at stake. Is that being achieved effectively, and if not, what does ICANN need to change to be able to do it effectively?

No. The composition of the Board does not reflect the interests of those who do not have financial interests at stake. The participation of users and general policy makers is grossly underfunded by ICANN.

3. There has been a lot of discussion, and some ATRT1 recommendations, related to the Public Comment process. Do you think the process to receive comments is working well, and if not, what needs to be done to fix or change it? For the comments that are received, do you feel that those requested by PDP Working Groups, Staff and the Board are effectively taken into account in ultimate decisions?

I think that it is not working well. I have no overview of how public comment is addressed or used. On the occasions that I have submitted comments, I feel that these have disappeared into an uncharted staff process, never to be seen again.

4. Do you believe that ICANN's organization of Advisory Committees and Support Organizations and their respective internal organizations are effective in achieving ICANN's multi-stakeholder goals, and if not, how should things be changed?

In general, the present system is not effective:

1. The new gTLD programme should never have been assigned to the GNSO, which contains the most interested parties, commercially speaking. That bias as ipso facto distorted the outcome.

2. Stakeholder participation is strongly biased against user groups and geographical areas which cannot afford full time, paid participation in ICANN on line and in meetings.

3. The funding of stakeholder participation is biased and unfair:

- commercial stakeholders fund their participation out of cash flow from DNS business, and expense these costs against tax. Thus their participation is ultimately paid for by the tax-payer.
- governmental participation is paid for by their tax-payers
- private and NGO participation is paid for out of their pockets and the limited budgets of these stakeholders. A few (e.g. At Large office holders) are paid for by ICANN.

The result is that the whole decision making process (e.g. PDP) is fundamentally biased towards the interests of the commercial stakeholders.

5. *Do you have any comments with regard to ICANN's implementation of the recommendations of the three earlier AoC Review Teams – Accountability & Transparency, WHOIS, and Security, Stability & Resiliency?*

The main concern is that everything seems to take an inordinately long time. Those recommendations are by now dim in the distant past (I do not have time now to look them all up again). Isn't the WHOIS business being done all over again? I saw a 50 page report by a large study group. What is going to happen next? How long will that take?

6. *Do you have concerns about ICANN's overall transparency and accountability, or related issues that are specific to your group?*

In general, Yes. Not related to any specific group.

7. *Public comments appear to indicate a concern that there has not been a substantive improvement in accountability and transparency since the ATRTI Report. What is your impression? What do you recommend we should focus on?*

I have the impression that nothing has really changed. ATRT should focus on improving the decision making processes of the Board itself. The necessary information is usually available. The problem is that it is not used appropriately.

8. *Has the Community any specific issues or concerns with other aspects of Security Stability and Resiliency that are outside of DNS specific issue?*

Yes. But these mainly fall outside ICANN's remit. e.g. the chilling effect of Internet surveillance. Many potential participants probably no longer say what they think.

9. *In regards to public comments, how do Commenters and Staff/Board deal with the practice of orchestrated, high volume from letter commenting ("astro-turfing")?*

You mean 'form letter commenting' - ?

I didn't know that people did that. They should be ignored.

10. *Does the Community embrace decisions made in regards to IP addresses and AS numbers?*

IP addresses – Yes. AS numbers – Don't know.

11. *How can we ensure that ICANN decisions are embraced or accepted? Do you review the decisions? (If not, why not?) If you don't embrace or accept ICANN's decisions, do you feel your opinion was properly understood and considered?*

There are several instances where ICANN decisions which are inexplicable unless one assumes the Board's ignorance of the Internet environment. e.g. vertical integration, generic gTLDs, delays in IDN.IDN, etc.

For instance, common sense could have predicted a long time ago the GAC positions on vertical integration, geographical, generics, sensitive terms etc. It was foolhardy to drive the bus against the brick wall, and then to collect 'objections' when companies have meanwhile cynically or naïvely invested in unsustainable proposals.

The mis-management of the new gTLD programme has undermined ICANN's international credibility.

12. *Is transparency sacrificed for expedience when the Board has a difficult decision to make? If yes, please provide examples.*

Probably.

13. *Is it clear to you that the Board has a dual role as a governance component inside the organization and is the last stop policy organ? [How do you deal with that dual role?]*

No. That is not clear.:

1. From the point of view of the bottom-up multistakeholder approach, the Board should be creating and overseeing the rules for the process, ensuring balance and transparency. That is not always the case.

2. As the Last Step in the decision making process, the Board needs to be independent of the constituencies. That does not happen. (a) the Board is too closely linked to the constituencies and (b) GAC advice is acted on *ex-post facto* because of disfunction between GAC and other stakeholders.

14. *Are the working methodologies of your group fully accountable and transparent? If not, how could they be enhanced or approved.*

In principle Yes. However, the At Large representatives are (a) too few and (b) have difficulty in collecting user-opinion, not least because many of us have experienced the chilling effect of having been ignored in the past, and knowing that the decisions will be biased in the future.

Roy, 7 August 2013