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STATUS: Ratified

AT-LARGE ADVISORY COMMITTEE

Comment on the Proposed Renewal of the Registry Agreement for the .XXX top-level domain (TLD)

ALAC Comments and Concerns

The At-Large Advisory Committee (ALAC) appreciates the opportunity to provide comments on the Proposed Renewal of the Registry Agreement for the .XXX Top-Level Domain (TLD). The ALAC appreciates ICANN org's efforts in standardizing contracts for compliance enforcement purposes, including the addition of recent Global Amendments and Base RA provisions. However, the ALAC is concerned about the formation and implementation of commitments that are made by potential and existing Registry Operators that are perceived by end-users as unimplemented or unilaterally discarded by the Registry Operator and unenforced by ICANN Contractual Compliance.

ICM made three significant voluntary commitments, at the time it was granted the .XXX registry:

1. Registrant restrictions
2. Enhanced Registrant verification
3. Enhanced Abuse Reporting

All evidence suggests ICM walked away from these commitments unilaterally and without consequence from ICANN Contractual Compliance.

End User Impact

While not all existing commitments and Public Interest Commitments (PICs) or all upcoming Registry Voluntary Commitments (RVCs) will have direct implications for end user welfare, a great many do and will. If these RVCs are not enforced, the TLD will

have been granted under a false premise and end users are the most likely to suffer the consequences. As a general principle, the ALAC believes that commitments made in order to operate a TLD by a Registry Operator should be enforceable, subsequently implemented by the Registry Operator, and enforced by ICANN Contractual Compliance. If a Registry Operator would like to withdraw from or alter its commitments, the Registry Operator must do so through the [Registry Services Evaluation Policy](#) (RSEP) process and not simply a contract renewal process.

Specifically, in the case of .XXX the commitments made by ICM have consumer protection benefits through enhanced abuse reporting and registrant verification which facilitates law enforcement.

[ALAC Commentary](#)

The ALAC is concerned that the removal of commitments, through a contract renewal, could set a precarious precedent for non-compliance without repercussion for existing Registry Operators that have already committed to voluntary commitments and potential Registry Operators that may introduce RVCs in the future. The ALAC would like to ensure that any commitments entered into by ICANN org and Registry Operators are enforced and complied with. The ALAC subsequently believes that any changes to commitments should be made via the RSEP process.

All other Sponsored Registries from the 2004 round, with the exception of .MOBI and .POST TLDs, have had their original Sponsored TLD registry agreements renewed by transposing most of their respective commitments contained in Appendix S, to a (new) Specification 12. There appears to be no compelling reason why the same approach should not apply to .XXX TLD.

ALAC Acknowledgement

The At-Large Advisory Committee (ALAC) appreciates the opportunity to provide comments on the Proposed Renewal of the Registry Agreement for the .XXX top-level domain (TLD), which gives rise to a number of issues impacting the interests of Internet end-users.

Ratification Record

On 18 March 2024, the Public Comment proceeding opened for the Proposed Renewal of the Registry Agreement for the .XXX top-level domain (TLD). On 26 March 2024, an [At-Large workspace](#) was created for their Public Comment submission.

On 27 March 2024, Michael Palage discussed the comments for the ALAC statement during the CPWG call. The At-Large Consolidated Policy Working Group (CPWG) decided it would be in the interest of end users to develop and submit an ALAC statement for this Public Comment proceeding. Michael Palage and Justine Chew volunteered to draft the initial ALAC statement.

On 18 April 2024, the initial draft statement was shared with the CPWG for review and input. On 23 April 2024, an alternative draft statement was shared with the CPWG by Carlton Samuels and Evan Leibovitch. On 24 April 2024, Jonathan Zuck, in a personal capacity, submitted an additional draft statement to the CPWG for consideration. All three draft statements were discussed during the 24 April 2024 CPWG meeting. The statement above was recommended by the CPWG for consideration by the ALAC

On 25 April 2024, the At-Large Public Comment Statement was finalized. The ALAC Chair, Jonathan Zuck, requested that the Public Comment Statement be ratified by the ALAC before submission to the ICANN Public Comment feature.

On 29 April 2024, staff confirmed the online vote resulted in the ALAC endorsing the statement with 14 out of 15 votes in favor. 0 votes against, and 1 abstentions. Please note 100% of ALAC members participated in the poll. The ALAC members who participated in the poll are (alphabetical order by first name): Aziz Hilali, Bill Jouris, Bukola Oronti, Claire Craig, Eduardo Diaz, Joanna Kulesza, Jonathan Zuck, Justine Chew, Lilian Ivette De Luque, Marcelo Rodriguez, Pari Esfandiari, Raihanath Gbadamassi, Satish Babu, Shah Zahidur Rahman, and Tommi Karttaavi. You may view the results here: <https://tally.icann.org/cgi/results?e=8dae848d1cd>.