DRAFT

Joint Statement on the IRT Report

From ALAC and NCUC

The At-Large Community, ALAC and the Non-Commercial Users Constituency of

ICANN strongly support the creation of new gTLDs. Having said that, the process to move forward with changes to the DAG Guidebook requires the legitimacy of full community participation and full transparency.

In the case of the IRT Report, we had neither transparency nor openness. The IRT Report and its recommendations harm the interests of domain name Registrants and Internet end users, and consequently we must object to the vast bulk of its recommendations.

To be more specific:

1. The Globally Protected Marks List – the GPML database- is a matter well beyond ICANN's scope and its core competence. It presumes to be able to resolve an issue that even WIPO wrestles with. Clearly the creation of the GPML, if even possible, would cause enormous complexity. Instead of speeding up the process of creating new gTLDs, it would introduce delays that would last for years. But the creation of this list must take place outside of ICANN.

2. The GPML takes no consideration of the actual limits of rights and protections allowed to trademarks. In the real world, trademark owners apply for a trademark in a specific class of goods and services, and their use is bound to that class or classes. By protecting a string of letters in all new gTLDs, the GPML would extend trademarks into new gTLDs far beyond the bounds of their class of goods and services, far beyond existing national laws and internationatreaties.

3. We have enormous problems with the Uniform Suspension Service (URS). The URS mechanism subverts conventional UDRP practice as it gives entirely insufficient time for notice to the registrant of the pending dispute. Thus, the registrant is unfairly limited in his/her right of response and the process is missing the fundamental principle of due process.

[ Kathy Note: This paragraph below seems to be somewhat controversial within ALAC. I think we will be dropping it. Don't worry, we'll include the statement in our comments -- if you all agree]
4. ALAC and NCUC strongly object to the Thick Whois Registry. In mandating such, the IRT Committee did not address any of the privacy issues that arise from moving personal data from many countries with data protection laws, perhaps, to a single country without data protection. Does ICANN really want to be in a position in which it may be violating national laws?

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Overall, we wish the result were different. We wish the IRT had delivered a reasonable proposal for the protection of trademarks. But the product delivered is far outside the scope and core competence of ICANN, and outside the bounds of trademark law.

We can do better; we must do better before we move forward.

Consequently, NCUC and ALAC stand before this forum together in fundamental opposition to many of the IRT Results.

Signed

ALAC NCUC

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