

**From:** Andrew Alston <[Andrew.Alston@liquidtelecom.com](mailto:Andrew.Alston@liquidtelecom.com)>  
**Date:** Tuesday, 2 January 2018 at 22:53  
**To:** "[pdwg-appeal@afriNIC.net](mailto:pdwg-appeal@afriNIC.net)" <[pdwg-appeal@afriNIC.net](mailto:pdwg-appeal@afriNIC.net)>  
**Cc:** Owen DeLong <[owen@delong.com](mailto:owen@delong.com)>, Mark Elkins <[mje@posix.co.za](mailto:mje@posix.co.za)>, Saul Stein <[saul@enetworks.co.za](mailto:saul@enetworks.co.za)>, Sander Steffann <[sander@steffann.nl](mailto:sander@steffann.nl)>  
**Subject:** Appeal against softlanding-bis declaration of consensus

Hi PWDG Appeal Committee,

We are appealing against the declaration of consensus made by the PDWG Co-Chairs on the 26<sup>th</sup> of December 2017.

As per the process:

Section 5.1 is met through their declaration of consensus under section 5.1.a of the appeal process

The complainants, Mr. Owen DeLong, Mr. Sander Stefan, Mr. Mark Elkins, Mr. Andrew Alston and Mr. Saul Stein have all clearly indicated on the lists a good faith belief that the declaration of consensus was in error – this fulfills section 5.1.b of the appeal process.

Attempts were made to engage with the chairs of the PDWG by all of the aforementioned complainants with no response being received – we believe this fulfills section 5.1.c of the appeal process

Considering the decision to declare consensus is still standing, we believe that the disagreement has not been resolved, fulfilling section 5.1.d of the appeal process

The chairs have not even responded to our requests on the email lists hence we believe that section 5.1.e of the appeal process has also been met.

We hereby attach supplemental documentation supporting our appeal and stating why we believe that this decision was in error and must be reversed, including all requirements as per section 5.2.a through 5.2.c, as well as 5.2.e through 5.2.h

5.2.i of the appeal process is met by the sending of this email. 5.2.e of the appeal process shall be met in due course by a minimum of 3 of the aforementioned individuals supporting the appeal (all appellants are copied)

We look forward to hearing from you

Andrew Alston

----- Forwarded Message -----

**Subject:** [rpd] Appeal against softlanding-bis declaration of consensus

**Date:** Wed, 3 Jan 2018 03:54:49 +0000

**From:** Andrew Alston <[Andrew.Alston@liquidtelecom.com](mailto:Andrew.Alston@liquidtelecom.com)>

**To:** rpd List <[rpd@afnic.net](mailto:rpd@afnic.net)>

As per the appeal process – this is being sent the RPD list in addition to it having being submitted to the appeal committee.

This completes the requirements for an appeal of the decision made.

Andrew

---

Appeal against the declared consensus of AFPUB-2016-V4-001-DRAFT07

Appealed by: Andrew Alston ([andrew.alston@liquidtelecom.com](mailto:andrew.alston@liquidtelecom.com)), 2<sup>nd</sup> January 2018

Decision Date: 26<sup>th</sup> of December 2017

Reference to appealed decision: <https://lists.afnic.net/pipermail/rpd/2017/007944.html>

#### 1) Introduction

The definition of rough consensus that is globally accepted within the RIR is defined by a lack of objections that are sustained and unaddressed. The latter being more important than the former. Basically – what this means is – it is imperative that the authors of a proposal address each separate objection, even in the event of them not being able to resolve said objection. More documentation of this can be found in RFC-7282.

In the process of rough consensus, the authors do not have the right to choose which objections are valid and invalid and then use that as a basis for choosing which ones they will respond to and address – ALL must be addressed.

Secondly – and objection expressed via any media (mailing list, or in person at a meeting) must be considered sustained unless explicitly withdrawn by the objector. This is imperative in the environment in which AFRINIC operates due to the fact that it is simply not possible for every individual participating on an email list to get to a physical meeting.

It is absolutely imperative that the second point be followed – since an objection that is not withdrawn explicitly can lead to a view by others who share similar opinion that the objection has already been made, and hence they will remain silent. If the initial objection has been discarded without being explicitly withdrawn by the initial objector, a secondary objector may be denied his voice through the simple assumption that the objection is still sustained.

This appeal will focus on these two aspects – firstly – was every objection addressed – and secondly – were objections that had not been addressed withdrawn by the objectors. It must be noted that in this case – the burden to prove that each objection had been addressed or withdrawn sits entirely with the co-chairs should they wish to declare consensus.

In addition – this appeal will address a procedural issue related to the process by which evaluation of objections was done by the co-chairs.

2) Some background history behind AFPUB-2016-V4-001

Shortly after AFPUB-2016-V4-001 came out - a second proposal was put to the floor to repeal the current (and now active) soft landing proposal. This was done after attempts to communicate with the authors of AFPUB-2016-V4-001 around the policy directly failed (sadly these communications were on Skype and the logs are long gone - so since this cannot be proven, it is submitted merely as unsubstantiated background, however the publication of the second policy is well documented fact)

The secondary proposal was created after objections raised to AFPUB-2016-V4-001 were raised and never addressed, and this was documented in an email sent to the RPD list on the 21<sup>st</sup> of February 2016, subject line:

*Re: [rpd] Proposal Update (was: Re: New Proposal - "Soft Landing - BIS (AFPUB-2016-V4-001-DRAFT-02)"*

In this email, Mr Alston stated:

*Many of our concerns with AFPUB-2016-V4-001-DRAFT-02 were raised on the mailing list, and despite comments on this proposal from multiple individuals none of the authors chose to engage on the mailing list to address or answer the concerns, either to refute or confirm them. As such, a counter proposal was prepared that was more in line with what the authors of AFPUB-2016-V4-002-DRAFT-02 would prefer to see, and the community may now debate both (hopefully in detail on this list BEFORE Gaborone) and then on the floor in Gaborone, and see which, if any, gain consensus.*

This created sustained and valid objections - since it is impossible to declare consensus by definition when you have two opposing policies dealing with the same issue.

In Gaborone in May of 2016, the issue of two competing policies came up and it was suggested that the authors meet together to attempt to work things out. This meeting did take place, in the board room on the second floor of the conference centre. Mr Seeburn, Mr Alston, Mr Aina and Mr. Oaiya were all present. That meeting failed to find a way forward - and indeed Mr Oaiya refused to even discuss the manner in which two competing policies would be put to the floor and consensus gauged in this rather unprecedented situation.

Naturally - both policies failed to reach consensus in Gaborone - though it would be later claimed by a minority of individuals that consensus was found to softlanding-bis in Gaborone (though both the video recordings and mailing lists clearly demonstrate that these claims were false)

The policy then came up again in Mauritius in late 2016, where post presentation the authors actually agreed to withdraw the proposal based on community request to do so - this is well documented in the video archive of the event - and I

specifically point to the following sequence of events in the video archive of that day:

(All times relative to the start of the video footage which can be located on youtube (<https://www.youtube.com/watch?v=XBv44KAgFVQ>))

At 6:54 Alain stated openly that the need for the policy would disappear once soft landing kicked in in its current form - a statement that has never been withdrawn

At 6:56 Mr Durand stated that runout was not a major problem - there was a secondary market and the costs contained therein were merely a cost of doing business

At 7:00 Mr Alston raised a concern about investments in infrastructure by African companies that would not be able to addressed

At 7:02 Mr Barrett Stated that there was no real problem statement that had been agreed to

At 7:04 It was stated by SM that there was no agreement that there was a problem with the current soft landing policy - or what that problem was if it existed

At 7:06 Markus stated that he would come back to the community with why there were issues with the problem statement of the opposing policy

At 7:08 An individual stated that the co-chairs should work on ALL interventions on the list and not merely rely on statements on the floor

At 7:10 The authors of the BIS policy offered to withdraw and work together with the authors of the opposing policy to find common ground

At 7:13 Seun stated that the problem statements found in both policies were too far apart and both policies should be withdrawn since consensus would not be found

At 7:26 The PDP Co-Chairs stated that the community clearly did not wish to see this community pulling in different directions

At 7:27 Mr Aina and Mr Alston both approached the microphone and clearly stated a willingness to withdraw (Mr Alston: "As already stated, we are quite prepared, myself and my co-authors, to join together with the authors of this proposal in mutual withdrawal" - Mr Aina: "Same here")

At 7:28 Mr Oaiya went to the microphone and withdrew what Mr Aina had said and refused to withdraw.

At 7:29 Mr Folayan stated the community wished to see a mutual withdrawl

At 7:33 Mr Oaiya went to the microphone and stated that the voices in the room were not sufficient to judge by and that there were insufficient comments on the list to gauge by.

At 7:35 Mr Ojedeji stated that both policies could not survive and a new problem statement was needed that encompassed the views of both opposing sides

At 7:36 Mr Folayan stated that it was not a problem if neither policy passed, because we already had a soft landing policy

At 7:37 Mr Aina stated that most of what is done in the PDP was on the lists and not on the floor of the meeting

Shortly after this meeting – on the 9<sup>th</sup> of December 2016 at 00:01 GMT+3 Mr Alston sent the following email to Mr Aina, both co-chairs and the staff Liason:

Hi Dewole,

*While we are prepared to look at working together on a new policy with the authors of the bis policy - we cannot do that until what was agreed at the meeting is completed.*

*At the meeting, there was an agreement for both policy authors to withdraw their proposals - as the community was requesting. I truly believed this was what was going to happen and it was going to be the start of a new trust relationship. Unfortunately - when it came time to follow through - this didn't happen.*

*Alain - rest assured that myself and my co-authors believe that you, as an individual, had full intention of honoring that commitment and following through with the withdrawal in that room. We understand why you were constrained in facing down Omo who was the one that started the problems and went back on everything - so we do not blame you for what happened in that room. At the same time, the authors of the soft-landing overhaul policy are of the very strong opinion that if we start to draft together or find points of agreement - it must be based on mutual trust relationship - and until the authors of the BIS policy do what they agreed to in that room - that is lacking - and we will remain at a point where we cannot move forward together.*

*Dewole - thank you for your efforts - and I believe that each of these points will be considered when we do build a joint policy, or if that cannot happen because of the reasons detailed above, the authors of the overhaul policy will certainly consider these points in any new policy we choose to bring forward following discussions with the wider community.*

*With regards to the next steps - we will be waiting for the minutes and the video transcripts of the meeting to go live and the authors of the soft-landing overhaul policy will make a statement about how we plan to proceed (if the status-quo remains unchanged from where it is now). If the status-quo has changed and commitments have been honored, we will begin the process of working together.*

Thanks

Andrew

Mr Aina responded with:

*It is obvious that the co-authors of the softlanding-bis consulted before stating the offer on working together with your group in addressing the softlanding discussions..It was not plan to make any decision in the room apart from agreeing on the principle. Thereafter, the two groups discuss and come back on the PDWG on the way forward. We recorded how things went in the room and remain committed to honouring your offer.*

*Our silence does not mean we are not going to honour the commitment and you will hear from us very soon.*

*Hope this helps*

—Alain

Following this exchange on the 12<sup>th</sup> of December 2016 having not heard anything back from the authors of the BIS policy the following email was sent to the RPD list:

Dear Community Members,

For those of you who were not in the room in Mauritius during the last PDP session, during the policy meeting there was clear indication from the community in the room that they wished to see the authors of both AFPUB-2016-V4-002-DRAFT01 (Soft Landing Overhaul) and the authors of AFPUB-2016-V4-001-DRAFT03 (IPv4 Soft Landing-bis) withdraw their policies and then go away and work together to come up with a mutually acceptable policy, so that the community was not forced to decide between two competing policies that directly contradicted each other.

We, as authors of AFPUB-2016-V4-002-DRAFT01 offered a mutual withdrawal as an act of good faith and stated that we were willing to work together with the authors of the Soft Landing-BIS proposal to come up with a new policy. The authors of the Soft Landing-BIS policy clearly indicated from the table that they were prepared to agree to this. At that point, we assumed that the withdrawal would be mutual and we would go away and work on together for mutual community benefit. The time then came to go to the microphone and jointly withdraw. Unfortunately, one of the authors of Soft Landing-BIS policy then went to the microphone and reneged on the agreement that had been publicly made before the community. It is the impression of myself and my co-authors that one of the authors of the Soft Landing-BIS policy had a clear intention to act in good faith, however one of the authors reneged on the promise to us and the community and hence, this individual was constrained in what he could do. At this point, to honor our commitment to the community, we unilaterally withdrew our policy, and we stand by that withdrawal.

**It should also be stated, at this point that our withdrawal of our policy was not, and will never be, a withdrawal to our substantial, sustained and valid objections to many aspects of the Soft Landing-BIS policy.**

It is now our contention as the authors of the Overall policy, that sadly, working jointly with the authors of the Soft Landing-BIS policy (and in particular with the individual who reneged on the agreement given to the community) has now become impossible, since we feel that we, and the community were lied to. The video transcripts will clearly demonstrate the agreement to withdraw both policies, and the change of heart when the time came to follow through. We feel that we cannot in good conscience proceed to drafting a revised version of the policy when the authors of the other policy can change their mind at the microphone after expressing things to the community, and we feel that policy authorship must be done in an atmosphere of mutual trust and respect - and while we were prepared to explore this, the authors (or one of them in particular) of the Soft Landing-BIS policy have in essence demonstrated bad faith and a complete lack of respect to the community we are all part of.

As such, we will be considering our options to put forward a new and modified policy, and we therefore invite ALL members of the community who wish to join us in finding a mutually acceptable policy to come forward and talk to us. Send us your ideas and if you wish, we will expand the co-author list. We heard the community wish and we acted in that good faith. We feel we cannot however work with people who turn away from their words and disregard the community will.

We needed to ensure that the community understand our position and we assure each and every one of you that we have and will always be working in our community interest. We look forward to working with every single one of you in finding a policy that will be acceptable to all members of this community, irrespective of size of organization or sector from which you stem.

*The authors of the Soft Landing Overhaul policy would also be remiss if we did not express our extreme concern that this community is now represented at the ASO by an individual who could display such blatant bad faith and walk away from promises to this community in the manner that was done.*

*Yours Sincerely*

*Andrew Alston  
Kris Seeburn  
Mark Elkins  
Michele McCann  
John Walubengo*

On the 26<sup>th</sup> of March 2017 Mr Alston then sent the following email:

*Abel, let me put this another way:*

*I remain opposed to any policy that tightens the limits on the amount of space that than organisation can get during the soft landing phase other than in a new comer phase where companies in this phase can get only ONE allocation and only if they have \*NO\* other resources, and that allocation is limited to a /22.*

*I remain opposed to the amount of space allocated for that being anything > /13*

*I remain opposed to any further critical infrastructure allocations that lockdown of space - since I believe these elements of critical infrastructure are already dealt with.*

*I remain opposed to tying soft landing allocations to anything to do with IPv6 - since there is absolutely zero evidence of the fact that companies who say "here is a plan that we are going to rollout v6" actually ever do anything about it and actually roll it out beyond sticking the block on some router for bgp announcement purposes.*

*I strongly believe that those who have need for space today to number their customers have done the work to build their networks and as such should be allowed to use the space that is available to number their customers. Anything else does not end up only penalizing the ISP that has put in the work and effort to build their networks, but also penalizes the customers in the regions that have actually built the networks and where billions of dollars has been poured into building those networks. I believe that to tighten restrictions in this manner promotes those who have not done the work and the effort to date at the expense of those who have put in the work and the effort and the money to build their networks and their customer base to the point where they can actually use the space today.*

*I believe that any attempt to prolong the life of V4 on this continent also leads us further down the path of digital divide with the rest of the world that is moving on. I believe that to say that the developed ISPs can go and do v6 while the new comers can have the v4 is a foolish argument in the extreme and will also simply act as a catalyst to a further digital divide, leaving the new comers at a distinct disadvantage further down the line and end up opening the door for acquisition of those companies by those who have gone v6, expanded their customer base and are now looking for easy picking as those who have not gone v6 start to fail.*

*Hence, I stand opposed to any tightening of limits, I stand opposed to anything that ties soft landing to v6 in any way, I oppose anything that locks space for some unforeseen future use when v4 is already largely deprecated, and I believe that space should be used today to number the consumers who need the space today, rather than limiting those who*

*need today, for the vague and unsubstantiated future dates when someone will need the space - with no guarantees that date will ever come.*

*Hope that answers your question*

*Andrew*

On the 30<sup>th</sup> of March 2016 Sami, one of the co-chairs sent the following to the RPD list:

*Thanks McTim for the reminder*

*However, as co-chairs our mandate is to consider every single proposal coming from the community and work to foster a constructive discussion, this necessitates all members to objectively discuss the ideas and only good ideas can be further developed to a policy.*

*I think our mandate is also to find a middle group to BUILD the consensus so we have to be positive and innovative rather than just rapporteurs- you know better than me in this regards*

*Sincerely*

*Dr. Sami Salih | Assistant Professor*

*Sudan University of Science and Technology Eastern Dum, P.O Box 11111-407*

On the 31<sup>st</sup> of March the following email was sent by Mr Alston on behalf of the authors of the withdrawn policy:

*Let me state our problem statement from the authors of the withdrawn proposal.*

*The problem is that restricting the amount of space that can be allocated in this late stage has the following effects:*

- a.) It disadvantages the areas that have already got networks and are ready to connect consumers but can't do so because they can't get adequate space*
- b.) It disadvantages the consumer who is in an area with network coverage but ends up stuck behind NAT and other mechanisms which hurt him because space allocation is being artificially constrained*
- c.) It increases the digital divide by creating a false sense that v4 is still current and will continue to last - while the rest of the world moves to V6*
- d.) It assists only people who have not yet invested in and build their own networks - at the expense of people who have already done the work*

*Furthermore:*

- a.) Any tie back to v6 "plans" has proven to be totally and utterly ineffective in actually getting people to do v6 - all it results in is people putting an allocation on one router for announcement purpose and saying look, we are doing v6, while the consumer never sees a v6 address*

b.) *Tying up resources for critical infrastructure at this point makes zero sense - critical infrastructure is by and large already catered for in other policies - with the exception of TLD's, and how much space are you reserving for them? A TLD should not require more than a /24, and there are only 54 countries on the continent - that amounts to no more than a /17 worth of space - why are we trying to tie up /12s?*

c.) *Restrictions on allocations without being willing to implement an inbound transfer policy that allows people to get space they need when they cannot get it via AfriNIC is nothing short of insanity, it puts the larger operators who need space at risk of being able to get NONE, while giving zero benefit to anyone - and the alternative to this is that it forces those entities to go and join another RIR, at additional expense to the operator and at the expense of revenue to AfriNIC*

*The withdrawn policy effectively called for the repeal of the soft landing policy - the bis policy effectively calls for a tightening of the policy - these are diametrically opposed viewpoints and diametrically opposed philosophies. This is the reason why I do not believe that there will be consensus on this and why I believe we are wasting our time - because there is a large segment of the community that will simply not accept the tightening of restrictions in soft landing, and there is an equal segment of the community that will not accept the repeal of the soft landing or a loosening of the restrictions. Which segment of the community has the right philosophy and the right approach, well, time will tell on this, but its immaterial to the discussion - the fact is - we're deadlocked on this and that's ok, lets accept it, accept the status quo and move on. Anything else is a waste of time and distracting from other far more important issues in my view... like the lack of inbound transfer policy for when we truly do need space and don't have any.*

*Restricting the allocation sizes in the soft landing is not the answer - and certainly not if you do not give the members the ability to get what space they need from alternate sources.*

*So - we can continue down this path, and I'm ok with that - however, I believe we're wasting our time because I do not believe we will see any consensus on this - not on the floor, not in last call, and not before all the space is gone. But the PDP Is clear, anyone has the right to have policy put before the floor and to be heard, and that must be respected, however much we oppose what is being said, and however much we believe that no consensus will be found. It is, under the PDP process, the decision of the authors to decide if they want to continue wasting the time of this community or not, and the decision is theirs and should be respected - but in turn, the opposition to what is being said must also be heard and respected - it goes both ways.*

*I remain opposed to anything that tightens restrictions*

*Andrew*

On the 2<sup>nd</sup> of April 2017 Mr De Long stated in an email (relevant sections extracted, full text in the RPD archive)

*I agree with McTim. I do not feel there is a compelling reason to amend the existing soft landing policy at this time. I don't feel that the -bis proposal benefits the community and I see a number of drawbacks to it. I'm not enthusiastic about the other proposal either.*

*The latest proposal from you and Seun is a substantial improvement, but I still do not believe that it provides benefit that exceeds the unintended consequences, so I remain opposed to it as well.*

Following the failure to ratify SL-BIS on Kenya in May of 2017, there were further discussions on the list – though before referring to those discussions, let me also include this email into this summary:

On the 27<sup>th</sup> of July 2017 – Mr Aina wrote the following to the mailing list:

*We have responded to this many times, but you keep playing it. So let me say it again.*

- 1- there was no request from community about withdrawal of the 2 proposals*
- 2- during AFRINIC-25 meeting in Mauritius, Authors of the SL-bis decided after the SL-overhaul was presented to not waste the working time by presenting and defending SL-bis and offered to work with the authors of the SL-overhaul and co-chairs to seek a common ground.*
- 3- withdrawal of the 2 proposals was raised by the authors of the SL-overhaul, but never agreed by the 2 parties as pre-conditions.*
- 4- we all know what happen after Mauritius with efforts and attempts made by co-chairs and authors of SL-bis...*

*Hope this clarifies and closes this rhetoric*

*Thanks*

*—Alain*

On the 28<sup>th</sup> of July Mr Habicht sent an email to the list – and a further expansion on that email was sent again later that same day – For Brevity I have not included these emails in this document since they are extremely long – but they are available in the archives.

On the 30<sup>th</sup> of July 2017 – following the Nairobi meeting where SL-BIS again failed to find consensus (and unfortunately, the reasons behind that are not cited here, since the audio on the video footage of that meeting is not available on the video stream that has been published) the following email was sent:

Andre,

*I must join with Owen in opposition to this policy, for pretty much all the reasons he has stated, the reasons I have stated in the past, and for a few other points. But - let me try and put this in point form to be brief, and to also address the point as regards /18s.*

- a. There are multiple networks on this continent who are involved in massive and costly rollouts, to serve customers. Irrespective of the stance of v6 on those operators, they still have a requirement for v4 resources today to continue to connect customers on the ground. In the case of our own network, while substantial work is ongoing towards being able to do a combination of 464XLAT and NAT64 in an effort to move away from v4, and while we have the highest percentage of v6 to v4 traffic to customers on the continent (by a LONG way), we have a need for v4 **\*today\*** to continue our expansion as we move ever closer towards a v6 centric environment.*
- b. The above point in no way suggests that work is not being done to minimize the use of v4 and use it prudently as we move in this direction, indeed, I will state publically and on the record, we have significant sections of our network running IPv6 only with zero ipv4 - and while that has slowed our burn rate on v4 addresses and slowed down our need to do another application - it has not eliminated the burn rate entirely - and we're still eating up space such that limitations of a /18 would effectively force us into the secondary market within 60 days of receiving said space.*
- c. The costs involved in turning to the secondary market would have to be borne by someone - namely the consumer - and this would be detrimental to growth and detrimental to the people on the ground.*
- d. The fact is - the infrastructure is there to connect consumers today - the money is invested - vast amounts of it - why should we, and our customers, be prejudiced by those who have not yet got around to building networks to utilize the space, particularly in light of the fact that there is zero substantiation or factual statistics that show when and if the utilization of this space by these mythical networks will occur.*
- e. I point to the fact that one particular group on this list has been consistently announcing for 2 years about a coming network - to this day - where is it? The /22 allocated to that organisation is to this day, years after being allocated, still only 25% announced in the global table. So we must hold back space, damage the consumer and the market in places where the networks are ready, for people who talk the talk - but aren't walking the walk?*
- f. I am also hopeful that with the coming of certain protocols (segment routing being high on that list), and with the new code coming available in various router operating systems, that the ability to properly do 4PE (IPv6 over IPv4) will arrive soon - that will also slow burn rates considerably and allow for some reallocation of space - so basically - what I'm saying is - probably 6 to 12 months from now, I would recon it would be possible to start releasing v4 from further portions of the network and recycling it to places where its truly needed - but right now - more v4 is needed - today - to address consumers - and it is blatantly prejudicial to not allow providers who can, within the bounds of current needs based policy, utilize the space today, to have what they need to the detriment of the consumer.*

*As I have stated time and again with this policy - and it is a point that has **\*NEVER\*** been addressed by the authors of this policy - we have to make a decision - are we in this for the consumer on the ground - who needs the space today - or are we in this to protect the interests of ISP's who either do not yet exist, or who have not been able to create sufficient infrastructure to utilize the space today. I argue that AFRINIC is meant, under its mandate, to promote the penetration of Internet in Africa - and this policy runs in*

*direct contravention of said mandate - since it slows down that development and will ultimately lead to additional costs that have to be borne by the consumer on the ground.*

*I would also point out that in the absence of an inter-region transfer policy, AfriNIC is a de-facto monopoly, potentially in contravention of certain competition acts that exist in various countries. By holding onto space and refusing to give it to those who have a real need for it, while not allowing space to be brought in from outside the region, that monopoly is being abused to the detriment of the ISP's who need the space today, and could well end up placing Afrinic at legal risk, because there are certain facts that have to be acknowledged should this come to pass*

- a. AFRINIC has resources available - they are refusing to distribute them*
- b. AFRINIC through its lack of inter-region transfer policy is denying ISP's access to the secondary markets - and thereby putting their businesses in jeopardy*
- c. While an internal in-region transfer policy exists - there is no guarantee that there will be willing sellers on the continent - nor is there any indication of what the pricing will be like. In the event that space is available on the international secondary market and there is none in Africa - and while AFRINIC does not have an inter-region transfer policy - and while they are sitting on resources that they will not allocate to those who need them - you better believe that it creates a bit of a legal predicament.*

*So for all those reasons, and everything I've stated before, including many reasons which have gone ignored by the authors - I continue to oppose this policy - and my objections are at present, sustained and unaddressed.*

*Andrew*

*On the 31<sup>st</sup> of July Mr Alston wrote:*

*Not that simple Fabian,*

*Because you have to cater for a level of growth as you transition - our current burn rate on space even doing all we can to slow it down - would result in us burning through a /18 in less than 3 months - and probably significantly less.*

*That's without certain large scheduled projects that are coming.*

*If I can't get IP space - or if I have to turn to the secondary market - once what we have available is used - projects will either cease or consumer costs will have to rise - someone has to pay for the secondary market pricing.*

*We have a policy of not charging for IP space given to clients at the moment - implementation of this policy may well force that to change - and right now - we are working around the clock to ensure that if space is all gone by the time we need more - we are ready with pure v6 and translation mechanisms so we can repurpose space - but passing this policy now - I guarantee you would end up having a negative effect on consumers.*

*We say the space is for growth in the African market - well right here - you have an African provider saying - this policy could hurt the consumer and hurt that growth - and it's coming*

*from the provider that has a larger end user v6 deployment than any other company on this continent - that's hard fact - look at the v6 statistics in Zimbabwe to verify it.*

*Please - think carefully about this policy - it is dangerous and damaging*

*Andrew*

While some discussions continued beyond this point they were limited and the authors did not offer any further substantial updates to the list prior to the meeting where consensus was declared

So – at this point we now need to analyze the above information

3) Analysis of the information specified in section (2)

- a) Going back to the Mauritian meeting in 2016 – it was stated by multiple members on the floor that the problem statement in softlanding-bis required rectification in order to find consensus on the policy – since there were two sides who had diametrically opposed views on the actual problem addressed. The problem statement has not been updated since then nor has this issue been addressed by the authors
- b) In Mauritius at 7:00 on the video Mr Alston raised a concern about investment from African companies into infrastructure that would not be able to be addressed by IPv4 space – this concern has never been addressed by the authors of the SL-BIS policy and remains sustained.
- c) In Mauritius there was a clear request from the community to withdraw the SL-BIS policy – multiple requestors to this effect have never withdrawn these requests and rather than address this issue the authors of SL-BIS has consistently denied that it never happened – despite it being clearly shown on the video footage and in the minute by minute summary posed above
- d) The issues raised through the opposing policy to repeal what is in the current softlanding policy were never withdrawn – even while the policy opposing was withdrawn – and this was clearly highlighted in subsequent emails. These issues have never been addressed by the authors of SL-BIS and remain sustained and unaddressed
- e) The issue of the fact that this policy is prejudicial to those entities who have already invested and have running networks and are ready to connect consumers today has never been addressed by the authors of SL-BIS in any form – indeed the emails that raise these concerns have never been so much as replied to.
- f) The issue that this policy creates legal liability as referenced in the above emails was never addressed by the authors of SL-BIS and remains unaddressed
- g) There were a number of issues raised on-list by persons other than Mr. Alston which also went unaddressed by the authors during last call. Outright dismissal without actual consideration and evaluation cannot be considered as addressing an issue. This issues included, but were not limited to:

- a. The proposed policy will not, as it claims protect those further back in a queue from those at the front of the queue. The 12 month moratorium on subsequent applications goes beyond that mandate and does, as claimed by intervenors such as Mr. DeLong protect “future networks that may or may not come to exist”.
- b. The proposed policy will not reduce the scarcity of addresses. Indeed, it will accelerate the onset of that scarcity while delaying the actual runout making scarcity more painful for a larger number of people over a more prolonged period.
- c. The proposed policy is harmful to consumers and existing providers who have already invested in and built infrastructure in that it may prevent them from numbering actual customers being added to that infrastructure.

4) A look at what occurred during last call.

During the last call multiple individuals signed a petition that was sent to the list protesting this policy. This petition as signed by numerous individuals stated that a significant segment of the community felt that the policy was harmful to the industry, resulted in a waste of resources and was in conflict with section 3.4.ii of the bylaws.

In addition to the petitions, multiple intervenors posted individual messages objecting to each of the declaration of consensus sending the proposal to last call, the proposal itself (see above), and to any possible conclusion that there was consensus to send the policy to the board for ratification. Indeed, even some people who stated support for the proposal have stated that the lack of consensus is obvious and at least one such person (Sander Steffan) has posted such a message to the RPD list in support of this appeal.

None of the points in that petition have ever been addressed by the authors either during the last call period or before they were explicitly raised in the petition. Further, authors have not addressed any of the points raised in the other emails except to state that they are “not relevant”, sometimes combined with ad hominem attacks on the persons posting same.

5) An issue of procedure

In the report submitted by the pdp co-chairs to the board of directors, as sent to the RPD list, the co-chairs indicated that they considered one objection and invalidated it through conversation with the staff. Nowhere in the PDP process is a mandate handed to the PDP co-chairs to decide on the validity of an objection, and it is the sole responsibility of the authors of a proposal to address objections from the floor. This was a violation of the process – and the objection that raised from the floor is, as per the process, unaddressed by the authors.

6) Summary

In summary – there are multiple objections to this proposal which have not been addressed by the authors. We do not talk to these issues being resolved (though they have not), but to the fact that they have been entirely and unambiguously ignored. This flies in the face of the definition of rough consensus – and hence – we ask the appeal committee to find that the co-chair’s decision to declare consensus was in error and invalidate said decision. At this point, the proposal should be sent back to the working group list for further refinement.

It is also acknowledged that while different weight may be placed on various objections for various reasons, it cannot be denied that issues that surround legal liability to the organization are critical and any such issues that remain unaddressed are serious and need to be reviewed by the authors in a satisfactory manner – which has not occurred.

While the co-chairs and the proponents of this policy have attempted to portray the opposition to this proposal as a “vocal minority”, the reality is that a review of the number of participants on the RPD list on both sides of this issue is relatively evenly split. However, to reach rough consensus, the standard is a lack of sustained opposition or at least a minimal sustained objection that has been addressed. In this case, the sustained objections are neither minimal (in number of objections or in number of objectors) nor have they been addressed. As such, we the petitioners believe it is objective fact that this proposal has not achieved consensus.