

2 April 2024

Tripti Sinha
Chair, ICANN Board of Directors

Subject: Submission of GAC Input on Community Consultation on PICs/RVCs

Dear Tripti,

Following reception of your [letter](#) submitted on 7 December 2023 pertaining to the Community Consultation on Public Interest Commitments/Registry Voluntary Commitments (PICs/RVCs), the GAC welcomes the opportunity to provide input to this important topic for the next round of new gTLDs.

Please find below the committee's collective input on the Community Consultation on PICs/RVCs.

The GAC looks forward to continued engagement with the ICANN Board and community on this important topic, and wishes to express its appreciation to the ICANN Board for launching this process.

Sincerely,



Nicolas G. Caballero
Chair, Governmental Advisory Committee (GAC)
Internet Corporation for Assigned Names and Numbers (ICANN)

GAC Comment on the Public Interest Commitments/Registry Voluntary Commitments Consultation

The GAC appreciates the work that went into developing the proposed [Implementation Framework for Content-Related Registry Commitments in the new gTLD Program: Next Round](#) (Proposed Implementation Framework) and recognizes the value of submissions made to this Consultation by different ICANN constituencies. This input, as well as the robust discussions which took place during ICANN79 in San Juan, Puerto Rico, benefitted the GAC in its consideration of this subject and in the development of this Comment.

In its ICANN79 Communiqué, the GAC noted that “Fundamental Bylaws Amendments should be considered carefully, and that an amendment should only occur if the ICANN community believes it is required.” It is clear from a review of the submissions made to this Consultation that there is not consensus support within the ICANN community for a Bylaws amendment.

In the GAC’s view, at this stage there are not sufficient elements to justify commencing a fundamental bylaws amendment to explicitly enable the enforcement of content-related restrictions. At the same time, the GAC’s concerns about the enforceability of PICs/RVCs remain, and so the GAC will continue to explore options to address this important question.

The GAC expects that PICs and RVCs will continue to serve as tools for addressing GAC concerns pertaining to new gTLD applications during the next round. Recalling the ICANN77 Communiqué, the GAC wishes the Board “to ensure that any future Registry Voluntary Commitments (RVCs) and Public Interest Commitments (PICs) are enforceable through clear contractual obligations, and that consequences for the failure to meet those obligations should be specified in the relevant agreements with Contracted Parties.” As also noted previously by the GAC, PICs and RVCs, including any which may pertain to content, must be sufficiently clear to be enforceable. Corresponding enforcement mechanisms, including those administered through ICANN Compliance, must be effective.

The GAC reserves judgment on whether third-party monitors or arbiters should be a mandatory requirement for new gTLD applications, as the suitability of such a third party as a monitor would be highly dependent on the particular context of the application.

The GAC was concerned about some of the consultation responses regarding how an application should proceed when the applicant and ICANN do not reach agreement on how an RVC or PIC could be enforced. When no agreement is reached between an applicant and ICANN, there may well be circumstances where proceeding may be an appropriate course of action;

there could be others where it would not be. For example if the GAC provided advice on a particular application we might find it unacceptable for the conditions specified not to be incorporated in the applicant's contract with ICANN.

Finally, the GAC finds it essential that ICANN org provides a legal analysis of the key questions at hand as part of this Consultation, as it would further the GAC's consideration of this issue.

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