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Governmental Advisory Committee Comments Regarding ICANN Community Participant Code of Conduct on SOIs and General Ethics Policy

Introduction

The ICANN Governmental Advisory Committee (GAC) welcomes this opportunity to provide comments regarding the ICANN Community Participant Code of Conduct on SOIs and General Ethics Policy¹.

General Comments

The GAC has addressed the matter of transparency and Statements of Interest (SOI) in prior GAC Communiqués since ICANN76 and addressed a letter to the ICANN Board Chair² on this subject, since transparency in ICANN’s Multistakeholder Model remains a top priority for the committee. The GAC notably included language to this effect in both the ICANN80 Kigali Communiqué³ and the ICANN81 Istanbul Communiqué⁴, recalling that ICANN Bylaws require ICANN and its constituent bodies to “operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness.”

¹ ICANN Community Participant Code of Conduct on SOIs and General Ethics Policy:

<https://www.icann.org/en/public-comment/proceeding/icann-community-participant-code-of-conduct-on-sois-and-general-ethics-policy-16-10-2024>

² GAC letter to ICANN Board Chair - SOIs and Disclosures in ICANN’s Multistakeholder Model (28 May 2024):

<https://gac.icann.org/advice/correspondence/incoming/20240528/statements-of-interest-and-disclosures-in-icann-s-multistakeholder-model>

³ ICANN80 Kigali Communiqué - 17 June 2024:

https://gac.icann.org/contentMigrated/icann80-kigali-communique?language_id=1

⁴ ICANN81 Istanbul Communiqué - 18 November 2024:

<https://gac.icann.org/contentMigrated/icann81-istanbul-communique>

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The GAC firmly supports transparency within ICANN, and considers it inconsistent with the ICANN Bylaws if ICANN participants are permitted to decline disclosing who they represent. Therefore, the GAC welcomes the publication of the proposed draft ICANN Community Participant Code of Conduct on Statements of Interest, and the approach to a General Ethics Policy that includes this Code.

The GAC intends to continue reviewing the progress of said proposal, and engaging with the community on the matter, and looks forward to further engaging in this process.

Prima facie, the proposal referring to Statements of Interests seems to be in the right direction, and to fulfil the expectations expressed by the GAC. At the same time, the GAC looks forward to the reactions from ICANN org to the views expressed during the public comment period, inter alia:

- the need of further guidance on situations where consequences for infractions of the Code may apply, including examples on where the prohibition to participate may result;
- more elaboration on the means and ways envisaged to enforce the provisions of the Code, including perhaps a clear tiered or graduated approach;
- consideration of potential measures to be implemented by ICANN org itself, as relying on personal responsibility and enforcement by voluntary leadership of ICANN's SOs, ACs, Constituencies, Working Groups, Task Forces, Review Teams, and other similar groups, may not be necessarily enough in all situations;
- establishment of periodic reviews based on data gathered by ICANN Org on the application of the Code provisions.

Closing

The GAC appreciates the opportunity to participate in community discussions on the matter of transparency within the ICANN Multistakeholder Model, including with the GNSO Council, the ICANN Board, the Contracted Parties House and the At-Large Advisory Committee. GAC members will continue to follow the matter closely as the policy and code of conduct move into in an implementation stage.

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