

27 June 2022

RE: ALAC ADVICE on ICANN74 Travel Acknowledgement

Maureen Hilyard
Chair, At-Large Advisory Committee (ALAC)

Dear Maureen,

On behalf of the ICANN Board, I write in response to the 2 May 2022 ALAC Advice to the Board on the ICANN74 Travel Acknowledgement. We thank the ALAC for sharing its views with the Board, and appreciate the engagement through the clarifying questions, which have helped the Board better understand the ALAC's concerns.

The ICANN Board acknowledges the ALAC's concerns, and we highly value your input. As we discussed, the Board cannot take on the remediation that the ALAC suggests, though the Board can direct further action in consideration of the issues raised. As part of the return to in-person meetings, ICANN org will evaluate a number of aspects relating to meeting attendance and participation, including possible improvements to waivers for meetings based on the experiences to date.

As discussed during ICANN74, ICANN org acknowledges that it could have handled communications around the introduction to the waiver differently. The waiver took many in the ICANN community by surprise, considering that the waiver was not limited to COVID-19 measures. Though this is not the first time that ICANN meeting participants have been asked to acknowledge legal terms, such as acceptance of ICANN's Terms of Service, it was the first time that such a document was very centrally and prominently integrated into the onsite registration process for an ICANN meeting.

Objectively, the introduction of the waiver did not and does not represent any change to ICANN's years-long practices of supporting Public Meeting attendees, including its funded travelers. ICANN provides a broad range of assistance to its attendees, including having health and safety services available, and resources to offer when our attendees face property loss or crisis. Prior to the community starting their travels to ICANN74, ICANN updated its FAQs for ICANN74 to clarify this for attendees, as well as providing additional information on the types of assistance that ICANN committed to provide in the event a funded traveler has their attendance at ICANN74 impacted by COVID-19 exposure or diagnosis.

We appreciate that the ALAC's concerns are not necessarily about the objective validity of the waiver, but more about the impact that having the waiver might have on participation in ICANN's multistakeholder model. The waiver clarifies the legal limitations that ICANN is willing to take on in inviting the global community to attend ICANN meetings – in line with ALAC's recognition that "participants at ICANN meetings have always willingly and knowingly accepted personal responsibility for

health issue that arise during meeting”. It also incorporates other terms that are standard in waivers, such as indemnification. Producing large meetings is a costly and risky endeavor, particularly as the world is emerging from the COVID-19 pandemic. The use of a waiver as such is therefore important from a fiduciary standpoint.

This letter closes the Board’s consideration process for this issue. We note that ALAC’s ability to provide advice arises under Section 12.2(d)(1) of the Bylaws, which states that “The role of the ALAC shall be to consider and provide advice on the activities of ICANN, insofar as they relate to the interests of individual Internet users.” For ALAC input issued in the future, we think it would be valuable if the ALAC could include guidance on whether, and if so how, that input falls within the ALAC’s Bylaws’ remit. This will support and guide the Board in responding to future input from the ALAC.

The ICANN Board looks forward to continuing the conversation with ALAC as well as the other Advisory Committees on how to further evolve the Advice development and consideration process.

Sincerely,



Maarten Botterman
Chair, ICANN Board of Directors