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ORIGINAL: English

DATE: 09 April 2024

STATUS: Ratified

AT-LARGE ADVISORY COMMITTEE
Proposed Bylaws Updates to Limit Access to Accountability Mechanisms

On 27 February 2024, the Public Comment proceeding opened for the [Proposed Bylaws Updates to Limit Access to Accountability Mechanisms](#). On 14 March 2024, an At-Large workspace was created for their Public Comment submission. On 21 March 2024, the Proposed Bylaws Updates to Limit Access to Accountability Mechanisms was discussed during the At-Large Operations, Finance and Budget Working Group (OFBWG) call. The OFBWG decided they would develop and submit an ALAC Public Comment Statement. Alan Greenberg, Judith Hellerstein, Claire Craig, Harold Arco, and Murial Alapini volunteered to draft the ALAC statement.

On 05 April 2024, the OFBWG finalized the At-Large Public Comment Statement. The ALAC Chair, Jonathan Zuck, requested that the Public Comment Statement be ratified by the ALAC before submission to the ICANN Public Comment feature.

On 09 April 2024, staff confirmed the online vote resulted in the ALAC endorsing the statement with 14 out of 15 votes in favor. 1 vote against, and 0 abstentions. Please note 100% of ALAC members participated in the poll. The ALAC members who participated in the poll are (alphabetical order by first name): Aziz Hilali, Bill Jouris, Bukola Oronti, Claire Craig, Eduardo Diaz, Joanna Kulesza, Jonathan Zuck, Justine Chew, Lilian Ivette De Luque, Marcelo Rodriguez, Pari Esfandiari, Raihanath Gbadamassi, Satish Babu, Shah Zahidur Rahman, and Tommi Karttaavi. You may view the results here: <https://tally.icann.org/cgi/results?e=b93aba64b9e>

This comment is being issued by the ALAC noting that:

1. The ALAC was one of the chartering organizations of the CCWG Accountability that created the ICANN Fundamental Bylaws and the ALAC approved the final recommendations;
2. The ALAC was one of the chartering organizations of the CCWG New gTLD Auction Proceeds and the ALAC approved the final recommendations; and
3. The ALAC is one of the Decisional Participants in the Empowered Community.

The ALAC strongly supports the proposed Fundamental Bylaw amendment.

Moreover, the ALAC commends the Board for revising the CCWG New gTLD Auction Proceeds recommendation to form a more general Bylaw should such a comparable accountability mechanism limitation be needed in the future.

Although any limitation in accountability is potentially onerous, the ALAC is comfortable that the three conditions proposed in the amendment only allow such limitations in situations where a more specific Bylaw limitation would also be approved by the Empowered Community.

The ALAC does, however, have one concern. Since this Bylaw amendment is general, it does not include the specifics of any limitations that it encompasses. Accordingly, someone referring to the Bylaws would have no idea as to what situations might trigger the limitation. The ALAC advises that the following sentence or equivalent be appended:

“The specific cases where the accountability mechanisms shall be limited or unavailable are posted on the Website at <https://www.icann.org/resources/pages/accountability/limitations-en>” (or comparable URL).

There is already a precedent for including such a URL in the Bylaws in Section 4.2(h).

Section 4.2(h) To properly initiate a Reconsideration Request, all Requestors must review, complete and follow the Reconsideration Request form posted on the Website at <https://www.icann.org/resources/pages/accountability/reconsideration-en>. Requestors must also acknowledge and agree to the terms and conditions set forth in the form when filing.

