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AT-LARGE ADVISORY COMMITTEE
ALAC statement on the Proposed Fundamental Bylaws Amendments Related to Grant Program

On 07 August 2024 the Public Comment proceeding opened for the **Fundamental Bylaws Amendments Related to Grant Program**. An At-Large workspace was created in preparation for this Public Comment submission. The At-Large Operations, Finance and Budget Working Group (OFB-WG) reviewed the Proposed updates. They decided it would be in the interest of end users to develop and submit an ALAC Public Comment Statement.

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Ratification Record

On 07 August, the Public Comment proceeding opened for the [Proposed Fundamental Bylaws Amendments Related to the Grant Program](#). On 26 August, Judith Hellerstein and Maureen Hilyard volunteered to review the Public comment. On 29 August, the penholders discussed the comments for the ALAC statement during the OFB-WG call. The At-Large Operations, Finance and Budget Working Group (OFB-WG) decided it would be in the interest of end users to develop and submit an ALAC statement for this Public Comment proceeding. Penholders volunteered to draft the initial ALAC statement.

On 29 August, the initial draft statement was shared with the OFB-WG for review and input, followed by a call for comments between 29 August and 2 September. On 2 September, the At-Large Public Comment Statement was finalized. The ALAC Chair, Jonathan Zuck, requested that the ALAC ratify the Public Comment Statement before submission to the ICANN Public Comment feature.

On [date], staff confirmed the online vote resulted in the ALAC endorsing the statement with [#] out of 15 votes in favor. [#] votes against, and [#] abstentions. Please note that [100]% of ALAC members participated in the poll. The ALAC members who participated in the poll are (in 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: [link to vote results].

[ALAC and At-Large Community Comments]

EXECUTIVE SUMMARY

The ALAC strongly supports the proposed amendment to Article 4, Sections 4.2 and 4.3 of the ICANN Bylaws whereby ICANN's Reconsideration and Independent Review Processes cannot be used to challenge, dispute, or seek reconsideration for any decisions made by ICANN, as they relate to an individual application made in the ICANN Grant Program. This bylaw amendment does not change the Bylaws governing any other part of those Accountability Mechanisms. These proposed Bylaw changes concern decisions made by the ICANN Grant Program.

The ALAC considers that no reconsideration or review shall be granted if the dispute relates to decisions made to approve or not approve an application in the ICANN Grant Program. The ALAC is comfortable with how the proposed Bylaw amendment is presented, in the Public Comment since this change only relates to the ICANN Grant Program and no other programs, decisions, or actions by ICANN.

ALAC Comment

The Board's proposed Fundamental Bylaws Amendment will insert language into the Reconsideration (Article 4, Section 4.2) and Independent Review Process (IRP) (Article 4, Section 4.3) sections of the ICANN Bylaws to exclude both claims and disputes "relating to decisions to approve or not to approve an application to the ICANN Grant Program" from being allowed under the relevant Accountability Mechanism.

The ALAC believes that this proposed Bylaw amendment supports the implementation of the Cross-Community Working Group on New gTLD Auction Proceeds' (CCWG-AP) Recommendation 7 and notes the following:

1. The ALAC was one of the chartering organizations of the Cross-Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability) that created the ICANN Fundamental Bylaws, and the ALAC approved the CCWG-Accountability's final recommendations.
2. The ALAC is one of the Decisional Participants in the Empowered Community.
3. The ALAC was one of the chartering organizations of the CCWG-AP and the ALAC approved the CCWG-AP's final recommendations. Moreover, the CCWG-AP discussed this issue thoroughly during its tenure. It was the express intent of that Working Group that none of ICANN's decisions in respect of the ICANN Grant Program would be subject to the ICANN

reconsideration or review processes. This proposed bylaw amendment will crystalize the CCWG-AP's Recommendation 7 for full implementation as intended.

Therefore, the ALAC strongly supports the proposed Fundamental Bylaw amendment, which states that *“Existing ICANN accountability mechanisms such as IRP or other appeal mechanisms cannot be used to challenge a decision from the Independent Project Applications Evaluation Panel to approve or not approve an application.”*

Article 4 ACCOUNTABILITY AND REVIEW and sections 4.2 and 4.3 make it clear that these above mechanisms cannot be used to challenge any decisions to approve or not approve an application in the ICANN Grant Program. The ALAC feels that this proposed change will not weaken the Bylaws and is comfortable with how the proposed Bylaw amendment is presented for Public Comment.

The proposed Bylaw amendment makes it clear that where any individual or company believes that an action taken by ICANN is wrong or incorrect, no reconsideration or review will be granted if the dispute relates to decisions made to approve or not approve an application in the ICANN Grant Program. Additionally, the new Bylaw amendment makes it very clear that ICANN's Reconsideration and Independent Review Processes cannot be used to challenge, dispute, or seek reconsideration for any decisions by ICANN, as they relate to the approval or non-approval of an individual application in the ICANN Grant Program.