24 July 2019

Recommended Improvements from the GNSO Council on ICANN Org Legislative Statement

Mandy Carver
ICANN.Org

Dear Mandy

The GNSO Council supports ICANN org in its initiative to identify legislative and regulatory efforts across the globe that may have impacts on ICANN's contracts with registries and registrars, consensus policies, and policies in effect or in development ("ICANN's Contracts and Policies"). However, we have some recommended improvements to the approach that ICANN org takes.

1. The GNSO Council believes that the current, crowdsourced approach where the community is expected to identify errors and omissions in the Global Legislative and Regulatory Developments Report is insufficient. While participants within the ICANN model should be encouraged to flag important legislative or regulatory changes, the risks to ICANN and its Mission are too critical to stop at that. ICANN is a professional organization and its professional staff should comprehensively monitor the regulatory landscape within which ICANN operates. We encourage ICANN Org to establish a standardized process for community members to submit important legislative or regulatory changes to ICANN.

2. We encourage ICANN org to conduct standard regulatory impact assessments so that the community can understand the intended rationale for a law/regulation/directive, specific extracts of the proposed text that could have implications on ICANN's Contracts and Policies and outline concretely what implications are anticipated. A timeline should be included so the community can understand how imminent the law/regulation/directive is and when it needs to take action. Once such a law or regulation has been adopted, ICANN org should undertake a compliance assessment as soon as possible to ensure sufficient time to address any deficiencies or issues.

3. We encourage ICANN org to partner with a professional firm to receive regular updates (at least every three months) focused on those key topics and regions that cause the majority of concerns. These reports should be made available to ICANN community members simultaneously.

4. While the GNSO Council would be pleased to accept ongoing monitoring reports, we would also welcome the opportunity to be briefed at our face-to-face meetings by ICANN's government relations team and to enter into a dialogue about issues that have the potential to cause concern.

5. The GNSO Council considers the GAC to be an important partner in these discussions and we would be delighted if GAC members could alert us to draft legislation which might have an impact on ICANN's contracts and policies. However, we understand that often the GAC is not in a position to be able to do so, so we believe the onus must ultimately fall on ICANN org to structure the dialogue and to monitor regulatory and legislative developments.

6. Without detracting from the importance of points 1-5 above, the GNSO Council is aware of ongoing discussions within the Cross-Community Engagement Group on Internet Governance (CCEG-IG), and with ICANN Board, ICANN Org, and GAC, on the potential for that group to serve as a community coordination point on issues related to the regulatory and legislative

tracking effort. The GNSO Council supports further exploration of this as one component of the broader work. We look forward to continued discussion to help identify the most efficient and effective mechanisms to ensure the Board, Org and community are aligned in this important work.

7. Finally, the GNSO would welcome further insight into ICANN's plans for consolidating, analysing and sharing inputs received from the community.

Thank you for the opportunity to provide input. We hope these recommended improvements are helpful.

Sincerely,

Keith Drazek, GNSO Council Chair
Rafik Dammak, GNSO Council Vice Chair, Non-Contracted Parties House
Pam Little, GNSO Council Vice Chair, Contracted Parties House