

29 March 2019

Subject: Enforcement of ICANN's Expected Standards of Behavior

Mr. Andrew Bernstein [via email]
Ms. Robin Gross [via email]
Mr. George Kirikos [via email]

Dear Mr. Bernstein, Ms. Gross and Mr. Kirikos:

In our capacity as the 2018-2019 GNSO Council Leadership Team, we have followed carefully your exchange of letters with ICANN concerning the enforceability of ICANN's Expected Standards of Behavior and alleged violations thereof. As you know, the GNSO Council is responsible for the management of GNSO Policy Development Processes (PDPs) and we have a clear obligation to ensure PDP Working Groups can conduct their work in a manner that is professional, efficient, timely, and consistent with the Expected Standards of Behavior.

On 9 March 2019, ICANN's General Counsel delivered written [advice](#) to the GNSO Council concerning ICANN's views on the enforceability of the Expected Standards of Behavior and the key role PDP Working Group Chairs play in assessing behavior, determining whether violations occurred, and taking appropriate action. In that advice, ICANN clarified an [escalation process](#) where perceived or alleged violations can be addressed by Chairs, with a timely appeal mechanism via the ICANN Ombuds office.

Further, on 9 March 2019, ICANN's General Counsel delivered a [letter](#) to you citing Mr. Kirikos' violations of the Expected Standards of Behavior "in multiple and significant ways." We note these repeated incidents cited by ICANN and note further incidents on 7 February 2019 not cited by ICANN, where, via email, Mr. Kirikos provided a pre-drafted letter of resignation to the RPM PDP Co-Chairs, the terms of which also included removal of ICANN support Staff.

We note that ICANN's General Counsel, in his letter of 9 March 2019, offered you the opportunity to submit further information for consideration prior to completing a recommendation to us, the GNSO Council Leadership team. We also note the 10 March 2019 response letter to ICANN submitted on behalf of Mr. Kirikos by his attorney, Ms. Robin Gross, stating, "We trust that we will be given sufficient time to respond to the substance of your letter, proportionate to the time you took to respond to the October 23, 2018 letter."

In light of the potential for ongoing communications between you and ICANN on this matter, the GNSO Council Leadership Team has determined that our best course of action at this time is to require affirmative acknowledgment, acceptance of enforceability, and full compliance with the Expected Standards of Behavior moving forward. As such, the GNSO Council Leadership Team requests that, within seven days of receipt of this letter, Mr. Kirikos deliver to us in writing:

1. Acknowledgement and acceptance of ICANN's Expected Standards of Behavior;

2. Agreement that the Expected Standards of Behavior are enforceable;
3. Acceptance that future violations of the Expected Standards of Behavior may result in removal from GNSO PDP processes.

If no such letter is received within seven days, the GNSO Council Leadership Team will temporarily remove Mr. Kirikos from participation in the RPM PDP WG. At that time, Mr. Kirikos may escalate the issue to the ICANN Ombuds office, as outlined in ICANN General Counsel's 9 March 2019 advice to the GNSO Council Leadership. Please note that we are not requiring an apology from Mr. Kirikos at this time, and we are sending a separate communication to Mr. Shatan regarding his role this matter as flagged by ICANN's General Counsel.

Finally, following our review of the 3 February 2019 Section 3.7 appeal filed by Mr. Kirikos, in relation to which he requested an escalation to the GNSO Chair on 5 February, we have determined it was based on assertions that were not appropriate for, or that insufficiently substantiated, a Section 3.7 appeal. We refer you to the following observations by ICANN's General Counsel in his letter of 9 March 2019 to you:

"These actions themselves could be considered disruptive, and designed more to deflect from the issue of your own decorum and to instead raise questions of whether the Co-Chairs behaved ethically. These challenges are not focused on resolving the issues challenging the work of the RPM. In my view, this in itself does not appear to be a good-faith usage of ICANN processes, and implicates multiple areas of the Expected Standards of Behavior."

As Mr. Kirikos has previously received a private warning from the Co-Chairs regarding his conduct in this Working Group, this letter, as well as your letter of response, if any, will be posted to the Working Group email list within ten days. This is consistent with PDP Working Group guidelines requiring an initial private warning and subsequent public warnings.

We encourage Mr. Kirikos to submit his response as outlined above to ensure and enable his continued participation in the RPM PDP WG and other GNSO processes.

Sincerely,

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