

The Registry and Registrar Stakeholder Groups are voting no on this motion. I will explain the rationale behind this vote, address the perception of contracted parties by the non-contracted parties, and offer a way forward on issues of concern.

The ICANN community established clear processes for developing policy and they need to be counted on. We rely on these for our own stability and to set expectations with our customers. This motion undermines those processes; re-wording it will not cure that problem.

With regard to the RAA, there is a picket fence that sets out what areas can be addressed by the Consensus Policy process; the rest may only be done through a contract amendment negotiated between the Contracted Parties and ICANN. None of this prevents communication between the Contracted Parties and the community regarding possible amendments. These expectations are not adjustable because they don't accommodate a particular agenda or timeline. In cases of pressing need, there are alternative ways to approach Contracted Parties with a request for assistance.

It is unfortunate that perceptions in the community about the role of contracts have become as distorted as they have. However, the GNSO Council is neither a contract administrator nor an interpretation authority. Were some points of view adopted on how and why contracts should be updated, in theory agreements could be amended at any time by the GNSO Council by a motion and vote. That is not an appropriate expectation.

Contracted parties agree the community, where appropriate, needs a voice in policy matters. In fact, the community has a voice and with regard to the RAA has exercised it enthusiastically. The friction, we believe, that exists today comes from misperceptions of the role of the GNSO Council and from expectations of how the community's interests will be considered through negotiations.

The argument that "impacted" parties deserve a place in negotiations is unpersuasive. All of us in this room are impacted by agreements of all kinds every day as we conduct our businesses and live our lives. Were that logic carried forward, each of us would be full-time contract negotiators with airlines, telecommunication service providers, highway authorities, construction companies, appliance manufacturers, office landlords, and hundreds of others.

If the suggestion is that others deserve a place at the table because the last round of contract negotiations didn't produce satisfactory outcomes, the implication is that third party participation is the only avenue to satisfaction. This is a prescription for needless complication.

We are aware of the desire of the community to maintain momentum, and are willing to cooperate toward that goal so long as that is done in the proper manner.

First, the integrity of processes, and the ability for everyone in the community to rely on them, must remain sound.

Second, keep in mind that the full implementation burden—financially and operationally—of proposals are borne by Contracted Parties. Some proposed RAA amendments are not currently operationally or commercially feasible

The fastest and most effective way to assist the community with its many agendas, is to engage *first* with the Contracted Parties, and propose policy *second*. Making proposals without an understanding of whether or not they're operationally or commercially feasible is irresponsible.

Contracted Parties have been able to reset expectations of some. In late February, we met with international law enforcement authorities in Brussels. Law enforcement had made 12 proposals for RAA amendment, but after discussions with registrars on each one, they understood which were practical, which were wholly impractical, which could be addressed by contract amendment, and which should be addressed through PDP or a voluntary cooperative model. That discussion would have been far more productive 18 months ago, vs. wording amendments without

discussing with registrars, seeking and receiving endorsements, and then running into the “here’s why that idea can’t really be done” discussion.

The registrars are working with ICANN staff to identify a predictable manner to amend the RAA. Reaching clarity on that issue should be the highest priority.

Further, registrars will be examining the issues identified by the community in the RAA Working Group’s final report and will evaluate those from an operational and commercial perspective. For those that are not operationally or commercially feasible to implement, registrars will offer its rationale.

Our request of the community is this: Open a dialogue with relevant Contracted Parties on the concerns you have. The Contracted Parties have made outreach efforts to many in the community; while many are willing to have a dialogue with us, others regrettably, and puzzlingly, have refused. Regardless, our leadership has committed to 100% openness to the community. We will help the community understand what is feasible and collaborate on prioritization and an appropriate method to reach mutually desired outcomes.