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AL/ALAC/ST/0413/5

ORIGINAL: English

DATE: 11 April 2013

STATUS: Final

AT-LARGE ADVISORY COMMITTEE
ALAC Statement on the Public Interest
Commitments Dispute Resolution Procedure (PICDRP)

Introduction

By the Staff of ICANN

An initial draft of this Statement was composed by Alan Greenberg, ALAC member from the North American Regional At-Large Organization (NARALO) and ALAC Liaison to the GNSO, after discussion of the topic within At-Large and on the mailing lists.

On 30 March 2013, this Statement was posted on the [At-Large Public Interest Commitments Dispute Resolution Procedure \(PICDRP\) Workspace](#).

On 26 April 2013, a call for comments on the draft Statement was sent to At-Large members via the [ALAC Announce mailing list](#).

On 11 April 2013, this Statement was discussed in the [ALAC & Regional Leadership Wrap-up Meeting](#).

During that meeting, the draft Statement was discussed by all present At-Large members, as well as those participating via Remote Participation.

The Chair of the ALAC then requested that a ratification vote be held on the Statement.

Staff then confirmed that the vote resulted in the ALAC endorsing the Statement with 14 votes in favor, 0 votes against, and 0 abstentions.

You may review the result independently under: <https://community.icann.org/x/GQV-Ag>.

The Chair then requested that the Statement be transmitted to the Public Comment process, copying the ICANN Staff member responsible for this Public Comment topic.

[End of Introduction]

The original version of this document is the English text available at <http://www.atlarge.icann.org/correspondence>. Where a difference of interpretation exists or is perceived to exist between a non-English edition of this document and the original text, the original shall prevail.

ALAC Statement on the Public Interest Commitments Dispute Resolution Procedure (PICDRP)

The ALAC is deeply concerned by the proposed enforcement mechanism for the new gTLD Public Interest Commitments, which appears to be ineffectual by design.

Although described as a Dispute Resolution Procedure, the Public Interest Commitment (PIC) was introduced to the community as a process that could be "[enforced by ICANN](#)."

Many in our community were led to believe that "enforced by ICANN" meant that the PIC process would include an ICANN Compliance connection and that ICANN itself would carry out the enforcement.

As the PIC is currently presented, the process:

- Requires possibly significant fees with magnitudes that are currently unknown;
- Requires that the complainant demonstrates measurable harm due to the violation; and
- May be filed by ICANN, but without any obligation for it to do so.

Given that no exception is noted in the PIC process, ICANN could presumably only file an objection if ICANN itself could demonstrate that it was measurably harmed. This situation recalls the sad period when ICANN applied RAA sanctions only when it was not paid.

The UDRP, where decisions are outsourced like those of the proposed PICDRP, was deliberately designed to operate independently – the opposite of "by ICANN" as claimed by ICANN for the PIC. And unlike trademark claimants using the UDRP, members of the public should not be expected to have financial – or even direct – interest in order to complain when PICs are not being fulfilled.

The ALAC believes that ICANN made a serious mistake in not requiring all new gTLD applicants to stand by their application promises in the form of contractual compliance. We expected that the PIC, despite being a late addition to the application process, would be used as a crucial mechanism to uphold the interest of the public and the end user. As proposed, the PIC implementation is weak with features that actively discourage and penalize complainants. The PIC Dispute Resolution Procedure as it is currently presented provides little leverage for the Global Public Interest and it is therefore unacceptable. We firmly believe that ICANN must bestow upon the PIC process the true force of responsible and competent enforcement.