



Subject: Reference to ICANN's compliance with U.S. law is neither "new" nor contentious

To whom it may concern,

I submit this public comment in my capacity as Research Director at The Lawfare Project. The Lawfare Project is tasked with identifying, analyzing and counteracting *lawfare*, the abuse of the law and judicial systems to achieve strategic military or political ends. To that end, we have been keeping abreast of developments at ICANN where certain legal and regulatory procedures may be vulnerable to politicized manipulation.

We were concerned when the Draft Applicant Guidebook's fourth version removed the term "terrorism" from its non-exclusive list of areas subject to background checks, and gratified to see that the Proposed Final Applicant Guidebook includes specific reference to the fact that "ICANN must comply with all U.S. laws, rules, and regulations. One such set of regulations is the economic and trade sanctions program administered by the Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury."

Despite some expressed opinions to the contrary, the inclusion of language referring to "all U.S. laws, rules, and regulations" is anything but a "new" development. Rather, it codifies a preexisting condition, and attempts to politicize the issue are counterproductive.

ICANN is, and has always been, a non-profit corporation chartered in the United States and thereby subject to its laws. Recognition of this fact requires no epiphany, only cursory research and the application of logic.

At best, it is disingenuous to argue that the Legal Compliance paragraph in the Proposed Final Applicant Guidebook is an example of 'control' by the United States government. In fact, tenuous arguments conflating ICANN's legal compliance with the laws of its country of incorporation with any overarching political considerations are misguided and detrimental to the continued development of ICANN as a multinational entity.

For the foregoing reasons, we applaud ICANN's codification of its continued compliance with United States law into the text of the Applicant Guidebook, and strongly urge that the "Legal Compliance" paragraph remain unaltered in the final approved version.

Sincerely,

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