06 October 2014
Public Comment URL: https://www.icann.org/public-comments/bylaws-amend-gac-advice-2014-08-15-en
Subject: In the matter of Proposed Changes Regarding Consideration of GAC Advice

On 15 September 2015, the Internet Society provided comments in response to the call for input in the manner of proposed Bylaws changes regarding consideration of Government Advisory Committee (GAC) Advice. In our comments, we asked a set of clarifying questions on this significant issue. The comments can be found here: http://forum.icann.org/lists/comments-bylaws-amend-gac-advice-15aug14/msg00040.html. After considering the input submitted thus far and further discussion with our members and partners, we offer some additional views on the proposed changes to the ICANN bylaws. In short, we have reservations about the implications of this change for ICANN's policymaking process and for balanced decision making within the broader Internet governance ecosystem.

Fundamentally, it is important to consider the potential consequences of this proposed change on the broader Internet governance ecosystem. While recognizing that there are challenges in identifying appropriate ways for governments to participate in Internet governance generally, this should not be done at the expense of collaborative, bottom-up decision-making models. With respect to ICANN's own accountability, we note that ICANN is currently in the midst of a comprehensive review of its accountability mechanisms. Any changes to ICANN bylaws regarding weighted decision-making should be addressed in the context of that broader review.

Below we raise specific concerns about the proposed change, mindful about the implications for the broader Internet governance discussions.

First, the proposed change could inadvertently upset the current balance in the Internet governance ecosystem. While governments have key responsibilities for the protection of the fundamental rights and freedoms of their citizens, this unique role should not come at the expense of the roles and responsibilities of other stakeholders in Internet governance fora, including ICANN. Changing the current threshold for consideration of GAC advice could have the effect of giving the GAC a policy development role within ICANN rather than an advisory role. Treating the GAC preferentially vis-à-vis the other Advisory Committees (AC) blurs the boundaries between policymaking and advice within the ICANN structure. Furthermore, it remains unclear whether there are any safeguards in place to ensure that the GAC does not lower the bar for internal consensus.

Second, we do not believe that this proposal would achieve the goal of the Accountability and Transparency Review Team II (ATRT II) Recommendations, namely to encourage governments to more deeply engage in multistakeholder decision-making, specifically in policy development processes (PDP) performed by the Generic Names Supporting Organization (GNSO) and the Country Code Names Supporting Organization (ccNSO). Instead, the emphasis should be on identifying more innovative ways to integrate the GAC and its members into ICANN's PDP and to encourage transparent information exchange and sharing of ideas with the community.

Third, this proposal may have implications for the community's policy work in the context of domain names. As a private sector-led organization, ICANN supports and facilitates an environment that allows the diverse domain names community to work together within a consensus-based process. A change that would enable cross-

community decisions to be more easily overturned could change the essence of the multistakeholder model within ICANN's policymaking environment.

Once again, the Internet Society acknowledges the complexity of this issue and offers these comments in the spirit of continued cooperation and collaboration. Identifying ways to ensure the full participation of all stakeholders is the collective responsibility of all Internet institutions and actors. We remain committed to supporting ICANN as we work together to carry out our respective responsibilities towards evolving a healthy Internet governance ecosystem.

Respectfully submitted,

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