

20 January 2023

Tripti Sinha, ICANN Board Chair
Sally Costerton, Interim ICANN President and CEO

RE: Improvements to 2013 Registrar Accreditation Agreement (RAA) and Current Registry Agreement (RA)

Dear Tripti and Sally:

The undersigned write regarding anticipated updates to the currently-in-force [Registrar Accreditation Agreement](#) (RAA) and [Registry Agreement](#) (RA).

We are pleased to see that ICANN Org has accepted the contracted parties' (CPs) proposal to open contract negotiations to address the specific issue of combating domain name system (DNS) abuse -- specifically, abuse that employs maliciously registered domains. While many parts of the ICANN community do not fully agree with this limited definition of DNS abuse, we support this step to address a problem that has long plagued the community. While we understand CPs have proposed narrow parameters around these negotiations, the signatories here encourage ICANN Org and CPs to remain open to future negotiations to address the existing and evolving types of abuse which fall outside of the CPs' proposed definition of DNS abuse.

Regardless, our current specific interest is in the establishment of a duty to mitigate abuse and not, for example, simply to "investigate and respond appropriately", as required by the 2013 RAA (and while, importantly, not diminishing those duties under Sec. 3.18). Based on the Registrar and Registry Stakeholder Groups' [correspondence](#) of November 4, 2022 and ICANN's subsequent [response](#), it appears that there is contracted party alignment with that priority.

Members of the community have conducted ongoing discussions with CPs regarding what is potentially feasible, were the contracts to be amended. These discussions have yielded *some* measure of transparency into potential contract changes. However, more is necessary to ensure community input is appropriately regarded, and to assist ICANN Org in its established role as an advocate for community needs and arbiter of the public interest during negotiations.

We therefore request that ICANN Org follow precedent with regard to transparency to the community and the opportunity to contribute to negotiation efforts. We do not request or expect a role in the negotiating process itself; however, the community deserves a voice in matters of public interest such as this.

There are previously established standards for such a request. In the instance of the RAA:

- The agreement was successfully renegotiated in 2009 to include a number of community-based suggestions;
- Less than two years following the 2009 renegotiation, the RAA -- due to wide-ranging community input and ICANN Org responsiveness -- was subject to a new round of even further and far more extensive negotiation;
- During that 18-month (2011-2013) negotiation period, successive RAA drafts were subject to **numerous** postings and community updates, including community exchanges at every public ICANN meeting over that span of time;
- Information on the progression of the negotiations, including previously released updates and documentation, was made available to the community via wiki; and
- Proposed updates were subject to two rounds of formal public comment.

In the instance of the RA (both the base agreement and individual gTLD contracts):

- In the context of [development of the most recent round of new generic top-level domains \(gTLDs\)](#), the public had significant input, including two rounds of formal public comment (both in 2013 alone);
- Each time a gTLD Registry Agreement approaches its renewal, ICANN historically has provided the community with the opportunity to comment on terms of the renewal and/or changes to the contract; and
- As was the case with the RAA, the base RA was the subject of extensive Governmental Advisory Committee (GAC) advice, including the [Beijing Communiqué](#).

The above is a non-exhaustive list of various community inputs and serves as a reminder to ICANN Org's commitment to partnering with the community to ensure important priorities were reflected in final agreements.

Our groups expect the same level of priority observance, transparency and collective participation in this instance, while reminding ICANN Org that now, in 2023, requested contract changes deal only with the much more limited (although still complex) issue of DNS abuse.

With the above as context, we look forward to your reply confirming ICANN's intention to respect the community's longstanding role in contributing to RAA and RA improvements. In addition, kindly share your and contracted parties' anticipated timelines for the process of updating these agreements and soliciting community input.

Thank you for your attention to this important matter. We look forward to your reply.

Sincerely,

Business Constituency
Intellectual Property Constituency
At Large Advisory Committee