

ICANN shall ~~have no power to act~~ strictly other than in accordance with, and only as reasonably appropriate to achieve, its Mission. Without in any way limiting the foregoing ~~absolute prohibition,~~ ICANN shall not regulate services that use the Internet's unique identifiers, or the content that such services carry or provide. ~~[In service of its Mission,][Notwithstanding the foregoing,]~~ As reasonably appropriate to achieve its Mission, ICANN shall have the ability to negotiate, enter into and enforce agreements with contracted parties, subject to established means of community input on those agreements ~~and reasonable checks and balances on its ability to impose obligations exceeding ICANN's Mission on registries and registrars.~~

**Comment [GS1]:** I know that we are trying to prevent "mission creep" but the insertion of "strictly" concerns me. As I understand the "strictly" standard it draws very tight and inflexible boundaries. Even the smallest, most harmless, non-substantive deviation would violate the Bylaw, even if it's only an uncertainty as to whether it might not be in accordance with ICANN's mission. The practical result of this would likely be to interpret the Bylaws even more conservatively than we intend, to avoid any possible "straying" over the line. It also becomes another tool to challenge ICANN actions and decisions – whether some action was *strictly* in accordance with ICANN's Mission.

**Comment [GS2]:** The previous sentence is no longer phrased as a prohibition, so this should be deleted.

**Comment [GS3]:** This now parallels the "reasonably appropriate" standard in the first sentence.

**Comment [GS4]:** With the suggested introductory clause, it's extremely clear that ICANN is restrained from acting beyond its mission in connection with its contractual powers. As such ICANN has no ability to impose obligations exceeding ICANN's mission on anybody, including registries and registrars, so "reasonable checks and balances" actually seems to go too far, implying that ICANN can exceed its Mission, subject only to reasonable checks and balances. Also, the reference to "checks and balances" seems not to fit for another reason: "checks and balances" refers to interdependent systems, such as branches of government, that each have the ability to "check and balance" the other systems/branches.