

Formatted Table

2 nd Draft Report Language	Post-Dublin Language	Greg Shatan Proposal 2 Nov 2015	Malcolm Hutty Proposal 6 Nov 2015	Greg Shatan Proposal 9 Nov 2015
<p>ICANN shall have no power to act other than in accordance with, and as reasonably appropriate to achieve its Mission.</p> <p>Without in any way limiting the foregoing absolute prohibition, ICANN shall not engage in or use its powers to attempt the regulation of services that use the Internet's unique identifiers, or the content that they carry or provide.</p> <p>-</p>	<p>ICANN shall have no power to act strictlyother than in accordance with, and only as reasonably appropriate to achieve its Mission.</p> <p>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.</p> <p>In service of its Mission ICANN shall have the ability to enforce agreements with contracted parties, subject to established means of community input on those</p>	<p>ICANN shall have no power to act other than in accordance with, and as reasonably appropriate to achieve its Mission.</p> <p>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.</p> <p>ICANN and contracted parties entering into, complying with and enforcing agreements does not constitute regulation.</p> <p>In service of its Mission, ICANN shall have the ability to enforce agreements with contracted parties, subject to established means</p>	<p>ICANN shall only act strictly in accordance with and as reasonably appropriate to achieve its Mission.</p> <p>Without in any way limiting the foregoing, ICANN shall not engage in or use its powers to attempt the regulation of services that use the Internet's unique identifiers to enable or facilitate their reachability over the Internet, nor shall it regulate or the content that those services carry or provide.</p> <p>ICANN shall have the ability to negotiate, enter into and enforce agreements with contracted parties in service of its Mission. subject to established means of</p>	<p>ICANN shall only act strictly¹ in accordance with its Mission.</p> <p>Without in any way limiting the foregoing, ICANN shall not engage in or use its powers to attempt the regulation of regulate services (i.e. those offered by web servers, mail servers and the like)² that use the Internet's unique identifiers to enable or facilitate their reachability over the Internet, nor shall it regulate³ or the content that those services carry or provide.</p> <p><u>The prohibition on regulation of services that use the Internet's unique identifiers or the content that they carry or provide does not act as a restraint on ICANN's authority</u></p>

¹ I have not accepted Malcolm's addition of "strictly," since this will be construed to mandate the most restrictive and conservative interpretation possible and thus make the bylaw overly inflexible.

² This is taken from an email from Malcolm Hutty, as a description of what is meant by "services" in this context. Due to the variety of meanings that "services" can have, it is necessary to avoid ambiguity.

³ Once the nature of the "services" is clarified, the nature of their "use" no longer needs to be clarified.

	<p>agreements and reasonable checks and balances on its ability to impose obligations exceeding ICANN’s Mission on registries and registrars.</p>	<p>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.</p>	<p>community input on those agreements and reasonable checks and balances on its ability to impose obligations exceeding ICANN’s Mission on registries and registrars -</p>	<p><u>to negotiate, enter into and enforce agreements.</u>⁴ <u>Consensus Policy, as defined in “Consensus Policies and Temporary Policies Specification” in the 2013 Registrar Accreditation Agreement, is outside of such prohibition.</u>⁵</p> <p>ICANN shall have the ability to negotiate, enter into and enforce agreements with contracted parties in service of its Mission.</p>
--	---	---	--	--

⁴ This is taken almost verbatim from the Second Draft Report, para. 158. Since it is a direct comment on the contents of the Bylaw, it should be reflected in the draft Bylaw. Once this is here, Malcolm’s last sentence is no longer needed.

⁵ This is a recommendation taken from the “Comment Summary PRINCIPLES” analysis prepared by WP1 after the second Public Comment period.