

# **Decision-Making Transparency & Appeals- Recommendations 5-7-9**

Implementation Briefing for the Third Accountability &  
Transparency Review Team (ATRT3)

# Recommendation 5

*The Board should review redaction standards for Board documents, Document Information Disclosure Policy (DIDP) and any other ICANN documents to create a single published redaction policy. Institute a process to regularly evaluate redacted material to determine if redactions are still required and if not, ensure that redactions are removed.*

## Implementation Status

Operationalized in June 2016. Executive summary and archives available at: <https://community.icann.org/display/atrt/Rec+%237>

## Deliverables

Deliverable	Responsible	Status
Create pilot log	ICANN org	✓
Create report from log	ICANN org	✓
Document process for review of redacted material	ICANN org	✓
Finalize draft of Disclosure of Guidelines into combined document and submit to Board Governance Committee for information and review	ICANN org	✓
Publish Disclosure Guidelines combined document	ICANN org	✓

## Results and Implementation Details

### ***Unified Document Redaction Policy***

The singular document that contains reference to ICANN’s publication practices, including redaction procedures is published on ICANN’s Accountability page: <https://www.icann.org/resources/pages/publication-practices-2016-06-30-en>

The ICANN org also provides regular reports on the percentages of information redacted from Board briefing materials as part of its Accountability Indicators, available at <https://www.icann.org/accountability-indicators>. Please refer to reporting under Goal 5.2.

The ICANN org continues to improve its briefing material design, including more intensive consideration at the outset on the need for inclusion of materials that may require redaction. The process of documenting the process for review of redacted material has been completed.

Given that the ICANN org has posted Board briefing materials since 2010, we anticipate that a regular redaction reevaluation path will only be for more recent materials on a going-forward basis. A successful re-evaluation process requires more in-depth tracking at the time that redactions are applied, an effort that continues to be refined over time. The transparency recommendations from Work Stream 2 of the Cross-Community Working Group on Enhancing ICANN Accountability also call for this more in-depth tracking, and the ICANN org will focus on how to transparently and accurately provide tracking as well as the regular lifting of redactions where appropriate on a forward-looking basis.

### **CCWG-ACCT**

The Cross-Community Working Group on Enhancing ICANN Accountability (CCWG-ACCT) addressed DIDP as part of its work stream 2 effort. It issued eight recommendations in its final report - see pages 33-35 of the [CCWG-Acct WS2 Final Report](#). Following Chartering Organizations' approval, the Final Report was transmitted to the Board on 9 November 2018 for consideration.

## **Useful Links**

ICANN's publication practices

<https://www.icann.org/resources/pages/publication-practices-2016-06-30-en>

CCWG-Accountability Work Stream 2 Final Report -

<https://community.icann.org/display/WEIA/Final+Report>

# **Recommendation 7**

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*Public comment process:*

*7.1. The Board should explore mechanisms to improve Public Comment through adjusted time allotments, forward planning regarding the number of consultations given anticipated growth in participation, and new tools that facilitate participation.*

7.2. The Board should establish a process under the Public Comment Process where those who commented or replied during the Public Comment and/or Reply Comment period(s) can request changes to the synthesis reports in cases where they believe the staff incorrectly summarized their comment(s).

## Implementation Status

Completed on 31 December 2015. Executive summary and archives available at:

<https://community.icann.org/display/attr/Rec+%235>

## Deliverables

The recommendation identified various mechanisms to improve public comment periods through process modifications and the use of new tools. The Board specifically instructed the ICANN org to create and implement a process to enable those who comment during public comment periods to request changes to the ICANN org synthesis reports in cases where commenters believe the ICANN org incorrectly summarized their comments.

Deliverable	Responsible	Status
Centralized public comment page live on icann.org	ICANN org	✓
Enhanced visual timeline for public comment live on icann.org	ICANN org	✓
Ability to “follow” public comments on icann.org	ICANN org	✓
Eliminate Reply Cycle/Expand Comment period	ICANN org	✓
Create Staff Summary Report Inquiry Process	ICANN org	✓
Snapshot of public comment data 6 months after implementation	ICANN org	✓
Publish Report for Community	ICANN org	✓

## Results and Implementation Details

A 16-page ICANN org assessment report published regarding the recommendation 7 enhancements - <https://community.icann.org/pages/viewpage.action?pageId=56987496> -

provides a summary of the six specific operational and process improvements implemented by the ICANN org and confirms the value of those changes. While no specific key performance indicators have been established for the public comments infrastructure, the ICANN org will continue to monitor and measure fundamental aspects of the public comments environment on an annual basis - including the number of public comment proceedings, the number of comments filed and other relevant statistics. The ICANN org is establishing a multi-department team to investigate further evolution of the organization's community input capabilities and processes with an eye toward interfacing with future community review efforts (e.g., ATRT3) as needed in the future. There were four program enhancements implemented by the ICANN org as part of the ATRT2 recommendations.

### ***Reply Comments***

Reply cycles were added in January 2012 as a result of recommendations from the first Accountability and Transparency Review Team (ATRT1). An analysis covering three years of Public Comments data revealed that this innovation had not improved the effectiveness or efficiency of the program. As noted in previously published analysis reports, the number of legitimate replies to Public Comments solicitations, since implementation of the ATRT1 recommendation, averaged less than one and 72% of all solicitations received zero qualified replies. Anecdotally, a number of submissions were posted during the initial comment period merely indicating that, due to insufficient time, the formal response would be submitted during the reply cycle. The ICANN org's conclusion was to suspend reply cycles as part of this ATRT2 implementation. To date, the ICANN org has not received any requests to reinstate the reply cycle or raising concerns with its elimination.

### ***40-day Public Comment***

Effective with January 2015's ATRT2 enhancements, the targeted comment period length was set at a minimum of 40 days beginning with the first quarter 2015 through third quarter 2015. An analysis produced in December 2015 highlighted that a 40-day target is appropriate and should be maintained. The current process nevertheless includes a certain amount of flexibility: e.g. depending on the topic or objective, public comment proceedings may be of a duration longer than 40 days, or extended toward the end of the initial 40-day period. In addition, senior executive approval is required to conduct a public comment proceeding that is shorter than 40 days in duration. Finally, the ICANN Bylaws prescribe a mandatory 21-day comment period for certain topics. Overall, the current framework allows for sufficient flexibility while preserving certainty and accountability. To date, the ICANN org has not received any requests to amend, reinstate the original or extend the current period.

### ***Summary Reports***

Public Comments Guidelines were amended to emphasize the importance of producing summary reports within a two-week timeframe whenever possible. The intention was to

establish clear expectations for when reports would be available for community review and to track those expectations on the ICANN web site. The public comment web pages were re-designed to show when summary reports are expected and flagged when they are published. The new process also provides for management escalation if a report is not published within the expected timeframe except in those cases where advanced communication is received requesting a delay due to extenuating circumstances. The ICANN web page for each public comment solicitation prominently depicts the status of each proceeding from comment opening to the posting of the ICANN org summary report.

This round of enhancements/improvements has resulted in clarifying the ICANN org and community expectations as to when public comments summary reports should be available. Although there is no previous data, from earlier periods, that can be used for comparison purposes, the presumption is that the ICANN org's attention to this matter has been positively impacted given the regular reminders about upcoming due-dates (including the web site clearly displaying when reports are "past due"), presumably having contributed toward a greater awareness amongst the ICANN org to publish timely summary reports.

The Policy Department considered whether the expectations for report publication should be lengthened beyond the two-week standard, but determined that extending the due-dates across the Board could have the potential unintended consequence of enabling longer publishing periods rather than shorter ones.

The Policy Department continues to monitor and focuses attention on the process/methodology by which the ICANN org summary reports are developed for the purposes of learning more about where delays are introduced and what can be done to minimize them.

### ***Summary Report Inquiries***

Along with other enhancements to public comments that were made in implementing the ATRT2 recommendations, the ICANN org introduced a simplified protocol through which a community member may submit an inquiry, through the public comment website, for subsequent review, analysis, and disposition by the ICANN org. The summary report inquiry protocol permits an individual or organization to register a formal request (via email to [public-comment@icann.org](mailto:public-comment@icann.org)) for an ICANN org review of a particular public comment summary report and make specific amendments or other notations based upon the rationale and support provided - see <https://www.icann.org/resources/pages/report-inquiry-2014-10-21-en> for details on procedure. To date, the ICANN org has received several requests to correct specific factual points in some reports, all of which were addressed as quickly as was feasible. One complaint was filed in 2017 to ICANN's Complaints Office regarding a submitter's inability to file comments due to the changeover to a new software platform (<https://www.icann.org/en/system/files/files/complaint-response-c-2017-00006-20oct17-en.pdf>).

Overall, there is no indication that the community wishes to make further changes to this enhancement to public comments.

### ***Additional visibility***

Improvements were made to the landing page of every public comment proceeding. For example, a graphical timeline at the top of the page now clearly counts down the days remaining in the comment period as well as the publication expectations for the ICANN org summary report. The centralized public comment page can be viewed at <https://www.icann.org/public-comments#open-public> and the enhanced visual timeline can be found at <https://www.icann.org/resources/pages/upcoming-2012-02-25-en>. In addition, community members may opt to be notified of updates for specific proceedings by subscribing via the "Follow" button prominently displayed on the landing page of each proceeding.

### ***All Public Comment Requests managed through Policy Department***

To ensure consistency with the new ICANN org templates and ICANN org Guidelines (v3.0), the Policy Department reviews all public comment requests prior to forwarding for publication on icann.org. The ICANN org departments retain the responsibility for managing the public comment solicitations they initiate as well as for producing timely summary reports consistent with the guidelines. The Policy Department follows-up with the ICANN org managers on the summary report due-date and thereafter, as necessary, until publication.

The implementation of the Policy Department review ensures both consistency and thoroughness across the public comment process. The Policy Department collaborates with Web-Admin to ensure that new proceedings and summary reports are processed effectively and efficiently. This approach also gives the Policy Department an opportunity to confirm open, close, and report due-dates as well as identify other potential content issues, and facilitates Web-Admin in correcting any broken links or other technical problems with the documents before posting to icann.org.

### ***Evolution***

The ATRT2 recommendations are the latest in a long list of evolutionary steps intended to maximize the effectiveness of the ICANN public comment process. An effective public comments program requires regular monitoring, analysis, and creative thinking on the part of process owners as well as content contributors. For the implementation process, the ICANN org established an ICANN org advisory committee, comprised of content owners and producers across various departments within the ICANN org (e.g. Communications, IT and Policy), that assembled to discuss and strategize about potential improvements to all forms of community input mechanisms including public comments. The committee continues to actively evaluate new and innovative ideas that can help us better serve the full range of needs presented by our diverse community participants and customer bases. Since the initial implementation in 2015, a

number of process improvements (e.g. providing a text box containing simple explanations of the process on the main public comments page and highlighting the visual elements on the landing page of each proceeding) continue to be made.

## Useful Links

Plans for public comment improvements announcement - <https://www.icann.org/news/announcement-2-2014-06-12-en> - June 2014

Public comments improvements announcement - <https://www.icann.org/resources/newsletter/policy-update-2014-11-21-en> - November 2014

Report on ATRT2 public comment enhancements (see <https://community.icann.org/pages/viewpage.action?pagelId=56987496>) - December 2015

Centralized public comment page - <https://www.icann.org/public-comments#open-public>

Visual timeline - <https://www.icann.org/resources/pages/upcoming-2012-02-25-en>

Summary report inquiry - <https://www.icann.org/resources/pages/report-inquiry-2014-10-21-en>

Complaint received - <https://www.icann.org/en/system/files/files/complaint-response-c-2017-00006-20oct17-en.pdf>

Improvements webinars - see <https://community.icann.org/pages/viewpage.action?pagelId=51417227> and <https://community.icann.org/pages/viewpage.action?pagelId=51418375>.

Public Comments Guidelines, Procedures, Templates for ICANN org - <https://community.icann.org/pages/viewpage.action?pagelId=48344695>

## Recommendation 9

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*Consideration of decision-making inputs and appeals processes*

*9.1. ICANN Bylaws Article XI should be amended to include the following language to mandate Board Response to Advisory Committee Formal Advice: The ICANN Board will respond in a timely manner to formal advice from all Advisory Committees, explaining what action it took and the rationale for doing so.*

*9.2. Explore Options for Restructuring Current Review Mechanisms*



*The ICANN Board should convene a Special Community Group, which should also include governance and dispute resolution expertise, to discuss options for improving Board accountability with regard to restructuring of the Independent Review Process (IRP) and the Reconsideration Process. The Special Community Group will use the 2012 Report of the Accountability Structures Expert Panel (ASEP) as one basis for its discussions. All recommendations of this Special Community Group would be subject to full community participation, consultation and review, and must take into account any limitations that may be imposed by ICANN's structure, including the degree to which the ICANN Board cannot legally cede its decision-making to, or otherwise be bound by, a third party.*

### *9.3. Review Ombudsman Role*

*The Board should review the Ombudsman role as defined in the bylaws to determine whether it is still appropriate as defined, or whether it needs to be expanded or otherwise revised to help deal with the issues such as:*

- a. A role in the continued process of review and reporting o Board and staff transparency.*
- b. A role in helping employees deal with issues related to the public policy functions of ICANN, including policy, implementation and administration related to policy and operational matters.*
- c. A role in fair treatment of ICANN Anonymous Hotline users and other whistleblowers, and the protection of employees who decide there is a need to raise an issue that might be problematic for their continued employment.*

### *9.4. Develop Transparency Metrics and Reporting*

*The Board should ensure that as part of its yearly report, ICANN include, among other things, but not be limited to:*

- a. A report on the broad range of Transparency issues with supporting metrics to facilitate accountability.*
- b. A discussion of the degree to which ICANN, both staff and community, are adhering to a default standard of transparency in all policy, implementation and 59 administrative actions; as well as the degree to which all narratives, redaction, or other practices used to not disclose information to the ICANN community are documented in a transparent manner.*
- c. Statistical reporting to include at least the following elements:*

*i. requests of the Documentary Information Disclosure Policy (DIDP) process and the disposition of requests.*

*ii. percentage of redacted-to-unredacted Board briefing materials released to the general public.*

*iii. number and nature of issues that the Board determined should be treated confidentially.*

*iv. other ICANN usage of redaction and other methods to not disclose information to the community and statistics on reasons given for usage of such methods.*

*d. A section on employee “Anonymous Hotline” and/or other whistleblowing activity, to include metrics on:*

*i. Reports submitted.*

*ii. Reports verified as containing issues requiring action.*

*iii. Reports that resulted in change to ICANN practices.*

*e. An analysis of the continued relevance and usefulness of existing transparency metrics, including:*

*i. Considerations on whether activities are being geared toward the metrics (i.e. “teaching to the test”) without contributing toward the goal of genuine transparency.*

*ii. Recommendations for new metrics.*

*9.5. The Board should arrange an audit to determine the viability of the ICANN Anonymous Hotline as a whistleblowing mechanism and implement any necessary improvements. The professional external audit should be based on the Section 7.1 and Appendix 5 - Whistleblower Policy of the One World Trust Independent Review of 2007 recommendations (<http://www.icann.org/en/about/transparency/owt-report-final-2007-en.pdf>) to establish a viable whistleblower program, including protections for employees who use such a program, and any recent developments in areas of support and protection for the whistleblower. The professional audit should be done on a recurring basis, with the period (annual or bi-annual, for example) determined upon recommendation by the professional audit. The processes for ICANN employee transparency and whistleblowing should be made public.*

# Implementation Status

Operationalized - October 2018. Executive summary and archives available at: <https://community.icann.org/display/atrt/Rec+%239>

## Deliverables

Deliverable	Responsible	Status
9.1 Bylaws Amendment Regarding Advisory Committee Advice	ICANN org	✓
9.2 Review Accountability Mechanisms	Community (CCWG)	N/A
9.3 Review Ombudsman Role	ICANN org	✓
9.4 Develop Transparency Metrics and Reporting	ICANN org	✓
9.5 Review Anonymous Hotline	ICANN org	✓

*Recommendation 9.1 ICANN Bylaws Article XI should be amended to include the following language to mandate Board Response to Advisory Committee Formal Advice: The ICANN Board will respond in a timely manner to formal advice from all Advisory Committees, explaining what action it took and the rationale for doing so.*

# Implementation Status

Completed on July 2016. Addressed by CCWG-ACCT. Executive summary and archives available at: <https://community.icann.org/display/atrt/Rec+%239>

## Deliverables

Deliverable	Responsible	Status
Community consultation to develop Bylaws amendments, including issues of workflow and definitions	ICANN org	N/A

Bylaws amendments provided to Board to approve public comment posting	ICANN org	✓
Open public comment on Bylaws amendments	ICANN org	✓
Board approval of Bylaws amendments	Board	✓

## Results and Implementation Details

### **CCWG-ACCT**

The CCWG-ACCT identified the language recommended for inclusion in the Bylaws through this recommendation 9.1 as language that should be adopted as part of the Bylaws necessary to be in place for the transition of the stewardship of the IANA functions. The CCWG-ACCT proposal was provided to Chartering Organizations for consideration on 23 February 2016.

<https://community.icann.org/x/8w2AAw>, accepted by the Board and submitted to NTIA on 10 March 2016.

### **Bylaws Amendments**

Immediately following the 10 March 2016 transmission of the IANA Stewardship Transition Proposal to NTIA, the ICANN org drafted an initial set of revised Bylaws to incorporate the tasks and recommendations specified in the proposals. After the initial draft was shared with the external counsel to the CCWG-ACCT, the ICANN org worked closely with that counsel, and the Bylaws Coordination Group to refine the amendments. During this time, the Bylaws Coordination Group assisted the attorney drafting team when questions arose in the interpretation of proposals, or how to incorporate details for areas where the ICG proposal and CCWG-ACCT Work Stream 1 Report may have been silent.

On 21 April 2016, the ICANN org posted the [proposed revised Bylaws](#) for a [30-day public comment period](#). Each of the comments were [considered and analyzed](#), and the ICANN org produced a [detailed chart](#) assessing whether the Bylaws required modification to reflect the issues raised within each comment. The legal teams continued their close coordination in developing the necessary updates to the Bylaws in response to these comments.

After the comment summary and analysis was completed and the resulting changes were made, the Bylaws Coordination Group was consulted on the proposed final ICANN Bylaws. No objections or concerns were raised at that meeting.

On 27 May 2016, [the ICANN Board approved](#) the revisions to the ICANN Bylaws, thereby completing implementation of the recommendation.

### Section 12.3. PROCEDURES

Each Advisory Committee shall determine its own rules of procedure and quorum requirements; provided that each Advisory Committee shall ensure that the advice provided to the Board by such Advisory Committee is communicated in a clear and unambiguous written statement, including the rationale for such advice. The Board will respond in a timely manner to formal advice from all Advisory Committees explaining what action it took and the rationale for doing so.

#### **Action Request Register (ARR)**

Through the Action Request Register (ARR), the ICANN org has established a process to address correspondence to the CEO and ICANN Board. The ARR provides a centralized system supporting a consistent process and managing advice and/or recommendations to the Board from a variety of sources within the ICANN community, and allows for improved tracking of responses, including to advice.

## Useful Links

CCWG-ACCT Work Stream 1 Proposal - <https://community.icann.org/x/8w2AAw>

Draft Bylaws for public comment -

<https://www.icann.org/en/system/files/files/proposed-new-bylaws-20apr16-en.pdf>

Public comment period on Draft Bylaws -

<https://www.icann.org/public-comments/draft-new-bylaws-2016-04-21-en>

ICANN org report of public comment proceeding on Draft Bylaws -

<https://www.icann.org/en/system/files/files/report-comments-draft-new-bylaws-25may16-en.pdf>

+ detailed chart -

<https://www.icann.org/en/system/files/files/analysis-comments-draft-new-bylaws-25may16-en.pdf>

Bylaws approved by the ICANN Board -

<https://www.icann.org/en/system/files/files/adopted-bylaws-27may16-en.pdf>

Board resolution -

<https://www.icann.org/resources/board-material/resolutions-2016-05-27-en#1.a>

*Recommendation 9.2. Explore Options for Restructuring Current Review Mechanisms. The ICANN Board should convene a Special Community Group, which should also include governance and dispute resolution expertise, to discuss options for improving Board*

*accountability with regard to restructuring of the Independent Review Process (IRP) and the Reconsideration Process. The Special Community Group will use the 2012 Report of the Accountability Structures Expert Panel (ASEP) as one basis for its discussions. All recommendations of this Special Community Group would be subject to full community participation, consultation and review, and must take into account any limitations that may be imposed by ICANN's structure, including the degree to which the ICANN Board cannot legally cede its decision-making to, or otherwise be bound by, a third party.*

## Implementation Status

Fully implemented as of March 2016. Addressed by CCWG-ACCT and IOT. Executive summary and archives available at: <https://community.icann.org/display/atrr/Rec+%239>.

## Deliverables

Deliverable	Responsible	Status
Confirm that CCWG-ACCT is reviewing the Independent Review and Reconsideration Processes as part of their work	Community (CCWG)	✓
Continue regular monitoring of CCWG Accountability work to confirm that 9.2 is still addressed within their work	ICANN org	✓
Assess outcomes of CCWG-ACCT work to confirm if further work is needed to meet 9.2	ICANN org/community	✓

## Results and Implementation Details

### ***CCWG-ACCT and Bylaws Amendments***

The CCWG-ACCT addressed reviews of the Independent Review and Reconsideration Processes (IRP) as part of the Bylaws necessary to be in place for the transition of the stewardship of the IANA functions. CCWG-ACCT Work Stream 1 reforms on IRP can be found at:

<https://community.icann.org/pages/viewpage.action?pageId=58723827&preview=/58723827/58726371/Annex%2007%20-%20FINAL-Revised.pdf>.

CCWG-ACCT Work Stream 1 reforms on Reconsideration Process can be found at: <https://community.icann.org/pages/viewpage.action?pageId=58723827&preview=/58723827/58726374/Annex%2008%20-%20FINAL-Revised.pdf>. The CCWG-ACCT proposal was provided to Chartering Organizations for consideration on 23 February 2016, <https://community.icann.org/x/8w2AAw>, and was accepted by the Board and submitted to NTIA on 10 March 2016.

The IRP was significantly modified through the Enhancing ICANN Accountability Process, and the Bylaws reflecting the new IRP were updated on 1 October 2016 (see more information under Bylaws amendments section in recommendation 9.1).

The updates to the IRP, which have been incorporated as Fundamental Bylaws (meaning that ICANN's Empowered Community must approve changes to those Bylaws) now make the outcomes of IRPs to be binding upon ICANN. The IRP can also now be used more broadly than before, as it can be used to challenge actions by the ICANN org, and not just the ICANN Board. The updated IRP is available at Section 4.3 of the ICANN Bylaws.

While the updates to the IRP have been fully implemented through the 1 October 2016 ICANN Bylaws, there is still ongoing work in regards to the IRP. Through the Bylaws, a group called the Implementation Oversight Team for the IRP (the "IOT") is working on completing a final set of supplementary procedures for the IRP, which are a set of procedural rules that cover things such as page length, allowance for witnesses, etc., which guide the conduct of an IRP. An interim set of supplementary procedures was approved on 25 October 2018. The IOT has additional work to complete a "final" set of these supplementary procedures, and there are multiple efforts underway to try to attract more participants to the IOT work, as there have been significant challenges to reaching quorum (five participants) over the past months. The IOT will also be looking to update the cooperative engagement process that is a consultative process prior to the filing of an IRP.

## Useful Links

CCWG-ACCT Work Stream 1 Proposal - <https://community.icann.org/x/8w2AAw>

CCWG-ACCT Work Stream 1 reforms on IRP-  
<https://community.icann.org/pages/viewpage.action?pageId=58723827&preview=/58723827/58726371/Annex%2007%20-%20FINAL-Revised.pdf>

CCWG-ACCT Work Stream 1 reforms on Reconsideration Process -  
<https://community.icann.org/pages/viewpage.action?pageId=58723827&preview=/58723827/58726374/Annex%2008%20-%20FINAL-Revised.pdf>

Public comment period on Updated Supplementary Procedures for Independent Review Process - <https://www.icann.org/public-comments/irp-supp-procedures-2016-11-28-en>

Public comment on <https://www.icann.org/public-comments/irp-iot-recs-2018-06-22-en>

Independent Review Process Interim Supplementary Procedures -  
<https://www.icann.org/en/system/files/files/irp-interim-supplementary-procedures-25oct18-en.pdf>

Board resolution - <https://www.icann.org/resources/board-material/resolutions-2018-10-25-en#2.e>

IOT wiki - <https://community.icann.org/display/IRPIOTI>

### 9.3. Review Ombudsman Role

*The Board should review the Ombudsman role as defined in the bylaws to determine whether it is still appropriate as defined, or whether it needs to be expanded or otherwise revised to help deal with the issues such as:*

- a. A role in the continued process of review and reporting to Board and staff transparency.*
- b. A role in helping employees deal with issues related to the public policy functions of ICANN, including policy, implementation and administration related to policy and operational matters.*
- c. A role in fair treatment of ICANN Anonymous Hotline users and other whistleblowers, and the protection of employees who decide there is a need to raise an issue that might be problematic for their continued employment.*

## Implementation Status

Fully implemented/removed from work plan as of June 2016. Addressed by CCWG-ACCT. Executive summary and archives available at: <https://community.icann.org/display/atrt/Rec+%239>

## Deliverables

Deliverable	Responsible	Status
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Identify expert to review current Office of Ombudsman structure and consider modification of role	ICANN org	Removed from work plan
Expert review completed, and results socialized with the Board and Community	ICANN org	Removed from work plan
Bylaw changes (if needed) posted for public comment	ICANN org (dependent on Board approval)	Removed from work plan
If extensive modifications identified, allow for further community discussions at an ICANN public meeting after sufficient time to consider recommendations.	Community	Removed from work plan
Board Approval of Bylaws changes	ICANN org	Removed from work plan

# Results and Implementation Details

## **CCWG-ACCT**

An expert was expected to be retained and to perform a review of the Office of the Ombudsman by June 2015, with work expected to be completed by October 2015. Because of the unique nature of the Ombudsman role within ICANN, there were challenges in identifying a proper independent expert to undertake this review. As ICANN was conducting a search for this review, work continued in the CCWG-ACCT on modifying the role of the Ombudsman.

In addition to the changes to the Ombudsman role that are already reflected in the new ICANN Bylaws (particularly within the Reconsideration Process, where the Ombudsman has a new role), the CCWG-ACCT also noted that it would do a broader review of the Ombudsman role in its Work Stream 2 efforts.

ICANN committed to this work in the [Bylaws](#) as approved by the Board on 27 May 2016. To avoid a duplication of effort, the review of the Ombudsman role was removed from the ATRT2 implementation work plan, and ICANN supported the community’s Work Stream 2 efforts to align with the spirit of this ATRT2 recommendation.

### **External Review of the Office of the Ombudsman**

To support this work through the WS2 effort, an external consultant, Cameron Ralph Khoury, produced a review of the Ombuds Office and the WS2 Ombuds Subgroup considered the results of this report in making its recommendations (Annex 5.2 of [CCWG-Acct WS2 Final](#)

[Report](#)). The Ombuds Sub-Group agreed that "given the breadth and the depth of the review, that it would base its work on the results of that review and would accept all the recommendations from that report with minor amendments relative to implementation". Eleven (11) recommendations were produced on the enhancement of the Ombuds Office - see pages 25-28 of the [CCWG-Acct WS2 Final Report](#).

The Chartering Organizations have approved the WS2 Final Report and Recommendations for Board consideration. All recommendations out of the Ombuds Subgroup were approved, including Implementation Guidance developed on parts of the Ombuds recommendations. The WS2 report is pending Board action.

## Useful Links

CCWG-ACCT Work Stream 1 Proposal - <https://community.icann.org/x/8w2AAw>

CCWG-ACCT Work Stream 1 reforms on Reconsideration Process  
-<https://community.icann.org/pages/viewpage.action?pageId=58723827&preview=/58723827/58726374/Annex%2008%20-%20FINAL-Revised.pdf>

CCWG-WS2 Final Report - <https://community.icann.org/display/WEIA/Final+Report>

Board guidance on Ombudsman recommendations -  
<https://mm.icann.org/pipermail/accountability-cross-community/attachments/20180516/28e8d267/2018-05-14CoverlettertoCCWG-fin-14May-0001.pdf>

### *9.4. Develop Transparency Metrics and Reporting*

*The Board should ensure that as part of its yearly report, ICANN include, among other things, but not be limited to:*

- a. A report on the broad range of Transparency issues with supporting metrics to facilitate accountability.*
- b. A discussion of the degree to which ICANN, both staff and community, are adhering to a default standard of transparency in all policy, implementation and 59 administrative actions; as well as the degree to which all narratives, redaction, or other practices used to not disclose information to the ICANN community are documented in a transparent manner.*
- c. Statistical reporting to include at least the following elements:*

*i. requests of the Documentary Information Disclosure Policy (DIDP) process and the disposition of requests.*

*ii. percentage of redacted-to-unredacted Board briefing materials released to the general public.*

*iii. number and nature of issues that the Board determined should be treated confidentially.*

*iv. other ICANN usage of redaction and other methods to not disclose information to the community and statistics on reasons given for usage of such methods.*

*d. A section on employee “Anonymous Hotline” and/or other whistleblowing activity, to include metrics on:*

*i. Reports submitted.*

*ii. Reports verified as containing issues requiring action.*

*iii. Reports that resulted in change to ICANN practices.*

*e. An analysis of the continued relevance and usefulness of existing transparency metrics, including:*

*i. Considerations on whether activities are being geared toward the metrics (i.e. “teaching to the test”) without contributing toward the goal of genuine transparency.*

*ii. Recommendations for new metrics.*

## Implementation Status

Operationalized in October 2018. Executive summary and archives available at: <https://community.icann.org/display/atrt/Rec+%239>

## Deliverables

Deliverable	Responsible	Status
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Publish initial transparency statistics in FY14 Annual Report	ICANN org	✓
Develop more fulsome set of statistics for FY15 and operationalize full set of statistics for annual reporting	ICANN org	✓

## Results and Implementation Details

### *Statistics*

As the ATRT2 Final Report was approved at the end of FY14, the full component of statistics recommended for tracking within the recommendation was not operationalized for that year. ICANN published an initial set of transparency statistics in its 2014 Annual Report, available at <https://www.icann.org/en/system/files/files/annual-report-2014-en.pdf>. The ICANN org has published these statistics annually since that time.

The full component of statistics recommended for tracking within the recommendation and set of transparency efforts was published by the ICANN org in its 2018 Annual Report, available at <https://www.icann.org/en/system/files/files/annual-report-2018-en.pdf>. The objective of the transparency section of this report is to bring additional clarity and understanding of how the ICANN org fulfills its transparency commitments. The transparency section of the report provides an overview of ICANN’s existing transparency activities, shares new initiatives planned for the upcoming year, and provides measurable data of ICANN’s progress toward greater transparency.

The ICANN org also provides updated transparency metrics in Section 5.2 of the Accountability Indicators Dashboard. These describe and track the key areas of transparency work in ICANN’s operations. Transparency metrics include:

- Requests of the Documentary Information Disclosure Policy (DIDP) process and the disposition of requests.
- Percentage of redacted-to-unredacted Board briefing materials released to the general public.
- Number and nature of issues that the Board determined should be treated confidentially.
- Other ICANN usage of redaction and other methods to not disclose information to the community and statistics on reasons given for usage of such methods.
- Employee “Anonymous Hotline” and/or other whistleblowing activity, including: i. reports submitted; ii. reports verified as containing issues requiring action; and iii. reports that resulted in change to ICANN practices.

- Continued relevance and usefulness of existing transparency metrics, including considerations on whether activities are being geared toward the metrics (i.e. “teaching to the test”) without contributing toward the goal of genuine transparency. There are also other reports already in existence that help meet the recommendation, such as the annual report on the usage of ICANN’s accountability mechanisms that is published every year on the Board Accountability Mechanisms Committee Page (and previously on the Board Governance Committee page) following ICANN’s Annual General Meeting. [https://www.icann.org/resources/pages/annual-reports-2012-02-25-en?routing\\_type=path#reconsideration-requests](https://www.icann.org/resources/pages/annual-reports-2012-02-25-en?routing_type=path#reconsideration-requests).

## Useful Links

Transparency statistics in 2014 Annual Report (including, subsequent annual reports) - <https://www.icann.org/en/system/files/files/annual-report-2014-en.pdf>

2018 Annual Report - <https://www.icann.org/en/system/files/files/annual-report-2018-en.pdf>

Board Accountability Mechanisms Committee Annual Reports on Accountability Mechanisms - <https://www.icann.org/en/system/files/files/bamc-accountability-mechanisms-21oct18-en.pdf>

*9.5. The Board should arrange an audit to determine the viability of the ICANN Anonymous Hotline as a whistleblowing mechanism and implement any necessary improvements. The professional external audit should be based on the Section 7.1 and Appendix 5 - Whistleblower Policy of the One World Trust Independent Review of 2007 recommendations (<http://www.icann.org/en/about/transparency/owt-report-final-2007-en.pdf>) to establish a viable whistleblower program, including protections for employees who use such a program, and any recent developments in areas of support and protection for the whistleblower. The professional audit should be done on a recurring basis, with the period (annual or bi-annual, for example) determined upon recommendation by the professional audit. The processes for ICANN employee transparency and whistleblowing should be made public.*

## Implementation Status

Operationalized in October 2016. Executive summary and archives available at: <https://community.icann.org/display/atrt/Rec+%239>.

## Deliverables

<b>Deliverable</b>	<b>Responsible</b>	<b>Status</b>
Identify expert to review existing policy and processes	ICANN org	✓
Expert report completed	ICANN org	✓
Complete implementation of modifications to policy	ICANN org	✓
Publish report to community	ICANN org	✓

# Results and Implementation Details

### *External Review*

The ICANN org commissioned an external review: NAVEX Global’s Advisory Services conducted and completed a review of the Anonymous Hotline Policy and Procedures in January 2016. The expert analyzed the Anonymous Hotline Policy and Procedures, identified gaps and provided recommendations for possible improvements that would elevate the anonymous hotline to a best practice reporting mechanism. The ICANN org considered feasibility of expanding the use of the hotline more broadly to the ICANN community. Results of the review can be found at

<https://www.icann.org/en/system/files/files/icann-hotline-policy-review-21mar16-en.pdf>.

### *Implementation*

As of September 2016, the ICANN org identified specific implementation steps to address the recommendations furnished by the expert in its report. The ICANN org has completed the first tranche of the modifications in the updated the Anonymous Hotline Policy and Procedures.

Some of the modifications that have been implemented include:

- The Anonymous Hotline Policy has been revised to allow reporting of all issues and concerns associated with misconduct related to laws, organizational policies and standards of conduct.
- The Anonymous Hotline Policy has been updated to include a description of good faith reporting and to define “non-retaliation” policy in more detail.
- A method has been adopted to ensure that the policy and procedures are both readily available to the ICANN org to ensure that those who use the Anonymous Hotline have the benefit of the information in both documents.
- The Anonymous Hotline Policy has been updated to reflect that a reporter will receive an acknowledgement of receipt of report from the hotline service provider within 24-48 hours of making a report if the reporter provided their contact details.

As NAVEX did not recommend that the hotline be expanded to the broader ICANN community, no further implementation was needed on that point.

Further to the various modifications to the Anonymous Hotline Policy and Procedures which the ICANN org has made to meet the recommendations and modifications proposed by the expert, the ICANN org is currently in the final stages of further updating and modifying the Anonymous Hotline Policy and Procedures to address the remaining recommendations, including but not limited to:

- To update the Anonymous Hotline Policy to include more detail regarding the notification to the Board about each report; and to update the Anonymous Hotline Procedures to reflect the actual practice that the Audit Committee is notified about each case.
- To update the Anonymous Hotline Policy to include specific examples of issues and concerns that may violate local laws and conflict with organizational standards of behaviour, to provide better guidance to potential reporters.
- To put internal communication in place to publicize the data in relation to the use of the Anonymous Hotline (e.g. frequency of use, type of incidents reported).
- To consider undergoing a third party audit at least once every three years to help identify gaps and enable timely corrections, which will be posted publicly.

The Anonymous Hotline Policy is considered an integral and foundational support policy for all of ICANN's key staff policies that are provided to ensure the highest ethical, moral and legal standards of conduct. It is intended that staff will be provided with a reminder of the policy along with clarification of any revisions and additions to the policy in the pending reissue of the Staff Handbook. Staff will be required to acknowledge receipt and it is expected that this will take during ICANN's usual annual policy acknowledgement process i.e. October-November.

### **CCWG-ACCT**

The CCWG-ACCT addressed the whistleblower policy as part of its Work Stream 2 effort. Relying heavily on the NAVEX report, the Transparency Subgroup issued eight recommendations that were incorporated into the final report - see pages 35-37 of the [CCWG-Acct WS2 Final Report](https://community.icann.org/download/attachments/88575036/Annex%208.1.pdf?version=1&modificationDate=1541534234000&api=v2). Annex 8 contains additional details <https://community.icann.org/download/attachments/88575036/Annex%208.1.pdf?version=1&modificationDate=1541534234000&api=v2>. These recommendations are heavily aligned with the NAVEX findings. The WS2 Report will be considered by the Board in due course.

## **Useful Links**

NAVEX Global's Advisory Services Report - <https://www.icann.org/en/system/files/files/icann-hotline-policy-review-21mar16-en.pdf>

CCWG-ACCT Work Stream 2 Final Report -  
<https://community.icann.org/display/WEIA/Final+Report>

CCWG-ACCT Work Stream 2 Final Report - Annex 8 -  
<https://community.icann.org/download/attachments/88575036/Annex%208.1.pdf?version=1&modificationDate=1541534234000&api=v2>