

## Cross-Community Working Group on Enhancing ICANN Accountability

### Work Area 2: Review Input from Public Comment and Categorize Items into Work Streams 1 & 2

Draft 3, 14-Dec-2014

Note: Work Stream 1 is designated for accountability enhancements that must be in place or firmly committed *before* IANA transition occurs. All other items could be in Work Stream 2, provided there are mechanisms in WS1 adequate to force implementation of WS2 items despite resistance from ICANN management and board.

Accountability Suggestions from public comments and posts	Supported by	Work Stream(s)
<i>1. Mechanisms to give the community authority over the ICANN corporation</i>		
Bring the <i>Affirmation of Commitments</i> (incl the Reviews) into the ICANN bylaws	BC, USCIB, SIIA, Verizon, Edward Morris	WS1
Amend ICANN bylaws to recognize a permanent cross-community representative structure (all ACs, SOs, Constituencies) with authority to:	BC, ITIC, Brian Carpenter, CNNIC, Siva, TPI, Verizon, NCSG, Just Net, E.Morris	WS1
Appoint members of <i>Affirmation</i> review teams	BC, Spain, Avri Doria	WS2
Review a board decision, or resolve a dispute (option to use independent panel)	BC, ITIC, Heritage, SIIA, EC, Mueller, Google	WS1
Approve changes to ICANN bylaws or Articles, with 2/3 approval	BC, ITIC, Google, SIIA, Hutty	WS1
Approve annual proposed ICANN budget	BC, ITIC, USCIB	WS1
Recall one or all ICANN Board members	BC, Avri Doria, NCSG	WS1
Change bylaws to improve Reconsideration Process: Trigger when board acts arbitrarily or capriciously; Reconsideration decisions subject to Independent Review	Google	WS1
Require supermajority for Board to approve action despite advice to the contrary from ACs or significant subsets of SOs	ISPCP, ITIC	WS1
Ensure that the ICANN Board can be held to its own Bylaws, and effective remedy granted if breach found by independent adjudicator.	Malcolm Hutty	WS1
Prevent ICANN Board redefining mission/scope in Bylaws without community consensus	Malcolm Hutty	WS1
<i>Affirmation</i> Review teams to have access to all internal documents	Avri Doria, MPAA, CIS, Morris	WS2
<i>Affirmation</i> Accountability & Transparency Review Team could recommend sunset of original reviews and create new reviews	BC, USCIB	WS2
Change standard for <i>Affirmation</i> reviews from “in the public interest” to “for the protection and advance of human rights and internet freedoms”	NCSG, Robin Gross	WS2
Let local courts hear complaints on free expression, security, and privacy	NCSG	WS2
Establish an independent inspector general for ICANN	SIIA	WS2
Create channels for inquiry/complaint/suggestions	Internet Society of China	WS2
Recall mechanism for any board member selected by an AC/SO	Avri Doria	WS1
Recall mechanism for SO Council and ALAC member selected by NomCom	Avri Doria	WS1
ICANN to engage with all governments as equal community stakeholders	Fiona Asonga	WS2
Allow GAC to select 2-4 voting ICANN board members	Spain	WS1

<b>Accountability Suggestions from public comments and posts</b>	<b>Supported by</b>	<b>Work Stream(s)</b>
Give Ombudsman ability to refer a matter to external body	NCSG	WS2
Allow NomCom to select and retain Ombudsman	Edward Morris	WS2
Broadly expand grounds on which ICANN decisions and operations can be challenged; lower threshold to succeed in a challenge	Spain, Heritage	WS2
<i>2. Mechanisms to prescribe or restrict actions of the ICANN corporation</i>		
Require consensus for any GAC advice that would need to be given deference by the ICANN board	Heritage, BC Stress Test #6	WS1
Prohibit ICANN from entering agreements that impose obligations unrelated to DNS management	Heritage	WS1
Commit the ICANN organization to maintain freedom of expression	Heritage, NCSG	WS2
Ensure ICANN Board does not act "ultra vires", and stays within assigned mission and scope. e.g., prevent scope creep in policies imposed via RAA.	Malcolm Hutty, BC, TPI	WS1
Require registry and registrar agreements be equitable and non-discriminatory	ITIC, Heritage	WS1
Require supermajority of board to change registry or registrar fees	Heritage	WS2
Change bylaws to establish term limits for ICANN senior officers	Heritage	WS2
Change bylaws to require that ICANN remain subject to US Law	Heritage	WS1
Require supermajority board vote and 2/3 community vote to change ICANN not-for-profit status or change ICANN's state of incorporation	USCIB, Verizon, SIIA	WS1
Before leaving California, ICANN must show benefits exceed costs	SIIA, USCIB	WS2
Explore incorporation as international org under international law	NRO	WS2
Limit ICANN executive function to implementation of policies	ITIC, Siva	WS1
Require ICANN to operate under rule of law in jurisdictions that support effective redress	MPAA	WS1
Require one-third of board members to devote full time to ICANN	Spain	WS2
Separate policy functions from root zone management functions	Heritage, Google, USCIB, Mueller, Verizon	WS1
<i>3. Mechanisms to ensure transparency of the ICANN corporation and the broader community</i>		
Have Transparency International conduct audit of all SOs and ACs	Edward Morris	WS2
Severely limit ICANN ability to deny disclosure/transparency requests	SIIA, Siva	
ICANN to undergo annual audit for transparency and achievement of goals	ITIC, Heritage, Google, Spain	WS2
Make all board deliberations transparent (with minimal redaction)	Siva, Robin Gross, Internet Society of China, BC	WS2
Require all Supporting Organizations to have accountability and transparency mechanisms aligned to those of ICANN	Edward Morris, Fiona Asonga	WS2
Create mechanism to obtain transparency of documents (e.g. FOIA)	USCIB, CIS, Verizon	WS2

Accountability Suggestions from public comments and posts	Supported by	Work Stream(s)

Links to sources cited in the table:

[Staff summary of accountability proposals taken from public comments](#), 15-Oct-2014

[Public comments on enhancing ICANN Accountability](#), 7-May thru 30-Jul, 2014

[BC \(Business Constituency\) comments and Stress Tests](#), 27-May-2014

[Google comments](#), 28-May-2014

[SIIA comments](#), 30-May-2014

[Heritage Foundation comments](#), 20-Jun-2014

[Public comments on enhancing ICANN Accountability](#), 6-Sep thru 13-Oct, 2014

[ITIF Principles](#), 27-Sep-2014

[CDT Endorsement of ITIC principles](#), 4-Aug-2014

[ISPCP comments on proposed Bylaws change](#) 14-Sep-2014

[Malcolm Hutto, comments at ICANN51, Enhancing ICANN Accountability session](#) 13-Sep-2014