

CCWG accountability ([archives](#))

- **Jurisdiction**

- The Brazilian Government believes jurisdiction is one of the core issues to be dealt with as it influences the way accountability processes are structured and operationalized and calls for it to be given priority in WS2 debate. It calls for the following to be immediately addressed: 1) AoC paragraph 8; 2) IRP to be a truly impartial body and no litigating party should benefit from its specific legal presence; 3) indicate cases when requirements are partially met; 4) Legal analysis should already include considerations on jurisdictional limitations and options.
- It was suggested that jurisdiction has the following layers: place and jurisdiction of incorporate; jurisdiction of places of physical presence; governing law for contracts; ability to sue and be sued in a specific jurisdiction; tax system. It was commented that contracts need to be in a stable and predictable legal regime and places of incorporation should be in a jurisdiction with strong corporate governance legislation, providing efficient accountability but enabling for multistakeholder model to be translated into legal framework. A contributor suggested adding acceptable domain name related laws. Another recommended including relation with national jurisdictions for particular domestic issues, freedom of expression, relationship with other international/global related organizations.
- There was a request for a post Istanbul update on jurisdiction and follow-up discussions.
- It was stated that *any IANA/Accountability proposal that includes moving ICANN outside the US, or even lacks assurances that this –will not- happen, is dead on arrival.*
- A contributor suggested exploring California law via a stress-test and comparing it to other jurisdictions.

- **IRP**

- A template for an enhanced Independent Review was circulated - <http://mm.icann.org/pipermail/accountability-cross-community/2015-March/001718.html>. Questions relating to precedential value, timeframe requirement, expedited process, dismissal provisions and emergency relief proceedings were raised.

- **Public Interest & Representation**

- A contributor flagged that one of the potential outcomes of the GNSO WG on Policy and Implementation WG is that all issues that impact stakeholders, regardless of when the issue arises in the policy-implementation continuum, must be referred to the GNSO and subject to a multistakeholder decision-making process. The potential accountability issue is whether the GNSO is capable of addressing issues where the Public Interest may be at odds with the desire of the Contracted Parties.
- **Public Comment**
 - It was commented that two rounds of public comment should be scheduled in light of the nature of the proposed reforms.
- **Taking stock of the global Internet community**
 - It was observed that the majority of the global Internet community will be from developing world and a call for diversity was made.
 - The question of whether the multistakeholder model could be evolved in a manner that ensures proportional representation in communities, forums, structures and Board was posed.
 - Barriers need to be identified and removed.
- **Finance/Funds**
 - The questions - what economic influence translate into in terms of power within ICANN, and how is the CCWG taking account of this - were raised.
 - A contributor suggested that one should require a five-year forensic audit before entrusting ICANN with greater autonomy. An internationally recognized firm would perform the audit and costs would be paid by ICANN. The contributor also suggested considering a form of rebate and stated an interest in understanding where expenses are going on a granular basis.
 - Determining the level of detail the community needs was flagged as important.
 - It was commented that a forensic audit is usually triggered if an auditor finds important discrepancies.
 - An additional suggestion was put forward based on [Kelly bill](#): 1) audit of IANA Consortium and ICANN performed by internationally recognized auditing firm; 2) office of inspector general for ICANN and the IANA Consortium.
 - While there is belief a role should be created for someone suitably qualified to compel production of financial records as an independent financial reviewer, there is disagreement on having a person/entity keeping ICANN accountable financially: it is important for the community to participate in selecting the audit firm (preferred feature) and for the subsequent audit report to be accessible to the community for review and query if required.

- It was commented that the power to reject the budget should be used to make the current consultation compulsory and the community opinion binding early during the budget development
- **Removing ICANN Board**
 - A contributor raised the question of standards and suggested appointments of alternates.
 - It was observed that the removal of the Board could trigger an early election/appointment process within a defined timeframe. During that period, the Board would be in form of caretaker mode and no new policies or major expenditures would be able to be approved.
- **Community Entity**
 - A contributor suggested that a community entity should be in place for all accountability mechanisms except for recalling the Board and suggests two options for recalling the Board: 1) decision made by SO/ACs, not through representatives in community entity; 2) decision made through community entity but representatives will have role of reporting decision their SO/ACs took in accordance with respective rules and in a transparent manner.
- **Legal Counsel & Subteam**
 - A contributor raised two questions for legal advisors: *Where does the statutory or other legal authority currently lie for the United States' control over the root, and in particular over ccTLD managers? Once the US Government abandons its current role (whatever it is), what statutory or other legal authority will ICANN have over the root, and in particular over ccTLD managers?*
 - There was an exchange on the legal subteam methodology update - <http://mm.icann.org/pipermail/accountability-cross-community/2015-March/001879.html>
- **Links**
 - A link to the RySG IANA statement circulated on the CWG list was shared - <http://mm.icann.org/pipermail/accountability-cross-community/2015-March/001755.html>
 - CWG slides - <http://mm.icann.org/pipermail/accountability-cross-community/2015-March/001826.html>
 - ICANN Blows \$4.6 Million in Stock Market - http://www.circleid.com/posts/20090203_icann_blows_46_million_stock_market/
 - DEPARTMENT OF COMMERCE: Relationship with the Internet Corporation for Assigned Names and Numbers - <http://www.gao.gov/products/GAO/OGC-00-33R>

- Community Powers table - <http://mm.icann.org/pipermail/accountability-cross-community/2015-March/001841.html>
- Public Comment Review Tool (PCRT) - <http://mm.icann.org/pipermail/accountability-cross-community/2015-March/001845.html>
- Public Comment Period Duration - <http://mm.icann.org/pipermail/accountability-cross-community/2015-March/001846.html>
- ICG Guidelines for Decision-Making - <http://mm.icann.org/pipermail/accountability-cross-community/2015-March/001850.html>
- Kelly Bill - <http://mm.icann.org/pipermail/accountability-cross-community/2015-March/001849.html>
- Istanbul Cochairs Statement - <http://mm.icann.org/pipermail/accountability-cross-community/2015-March/001858.html>
- German Position on IANA Stewardship Transition - <http://mm.icann.org/pipermail/accountability-cross-community/2015-March/001902.html>
- Letter from ccNSO - <http://mm.icann.org/pipermail/accountability-cross-community/2015-March/001907.html>
- ICANN litigation - <https://www.icann.org/resources/pages/governance/litigation-en>

Stress tests ([archives](#))

Proposed accountability measures were added to stress tests and an update document was circulated <http://mm.icann.org/pipermail/ccwg-accountability4/2015-March/000127.html>

Legal Subteam ([archives](#))

A summary of the legal issues raised at the Istanbul face-to-face meeting was circulated - <http://mm.icann.org/pipermail/ccwg-accountability5/2015-March/000062.html>

A link to the agreed scope of work, rules of engagement and working methodologies was shared - <http://mm.icann.org/pipermail/ccwg-accountability5/2015-March/000064.html>

WP1 ([archives](#))

An update to the WP1-2A template - AOC merged into Bylaws - was circulated - <http://mm.icann.org/pipermail/wp1/2015-March/000170.html>

A rapporteur's report was circulated in advance of the Istanbul meeting. Follow-up comments were made - <http://mm.icann.org/pipermail/wp1/2015-March/000172.html>

A template on Council of Councils (WP1-H) was shared - <http://mm.icann.org/pipermail/wp1/2015-March/000180.html>

WP2 ([archives](#))

A contributor suggested giving the ombudsman more weight -

<http://mm.icann.org/pipermail/wp2/2015-March/000072.html>

It was suggested that the request for reconsideration should be able to address questions or substance and serve as a threshold requirement before IRP.

Independent Review ([archives](#))

A contributor called for binding input, identified composition and limitation related issues - <http://mm.icann.org/pipermail/wp2/2015-March/000072.html>

It was suggested that more than a Bylaw amendment would need to be in place before the transition (budgeted, Administrative Director identified) with a note that the CCWG should not be providing details on the procedures rules in Bylaws. He also raised the question of whether procedural rules are golden.

Compact Mission ([archives](#))

Suggested edits - <http://mm.icann.org/pipermail/wp2-compactmission/2015-March/000050.html>

Suggested clause that limits ICANN to its existing mission

<http://mm.icann.org/pipermail/wp2-compactmission/2015-March/000052.html>