

# CCWG Accountability

## Mailing List Discussions

### Week: 6 March – 12 March 2015

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#### CCWG accountability ([archives](#))

- **Review & Redress**

- A [status](#) update on the IRP review of the dot Africa issue was discussed, with comment including: 1) the process in its current form is dysfunctional and does not seem to benefit any of the affected parties; 2) provisions should be put in place to ensure redress against the dispute resolution provider in the event that the process goes off-track.  
The following comments on review and redress overall were also offered: 1) grounds for review, at the IRP stage, should be clearly specified; 2) all review processes should have some form of time limit for each stage, but allowing for some flexibility in specified circumstances; 3) any proposal for ICANN to be bound by an arbitration process needs to be considered carefully and subject to rigorous appraisal; 4) Redress against the dispute resolution provider in the event that the process goes off-track.
- There was a call for the CCWG to remain focused on principles and not second-guess specific ongoing disputes. At the same time, also taking the opportunity to learn from past cases and to test if new/enhanced accountability mechanisms would have been effective in those earlier events.
- There was a call for 1) a systematic approach i.e. a full assessment of what can go to reconsideration and what should go to an independent review panel; 2) criteria for entry into dispute resolution system; 3) careful consideration of entry-level requirements for IRP once the reconsideration process has been properly discussed.
- The question of what filters or tests should be required in order to access the mechanism was raised; how to guard against an environment in which no decision is final until all paths for appeal have been exhausted? Should a reconsideration be triggered based on a claim that staff action contravenes PDP developed policy?
- It was suggested that 1) a clearer corporate structure and the layered approach should be the way to look for guarantees of stronger internal checks and balances; 2) ICANN's present corporate governance structure, as well as the present implementation of its representation model, should be carefully analyzed at different levels or layers of responsibility and interests, as a framework for analyzing present and future reconsideration and redress mechanisms.

- **Community Empowerment**
  - The community empowerment mechanisms CCWG is proposing with regard to ICANN functions should be exercised responsibly: If there are to be checks and balances on ICANN, what checks and balances apply to different sections of the ICANN community?
- **Stress Tests**
  - It was suggested that stress tests should include the risk of gridlocking ICANN decision-making through use of cascading review mechanisms. Any accountability process should in turn have its own accountability fail-safes.
  - [Comments](#) were offered in response to stress test #21 and # 19.
- **Legal Expertise**
  - [Materials](#) provided by the firms being interviewed as candidate firms to provided external/independent legal advice and the CWG [decision](#) were circulated.
  - There was a call for prioritization and focusing on the most important legal questions.
  - It was requested that the question of jurisdiction not be overlooked, both when engaging with the external legal advisors and in the CCWG's discussions.
  - A reference to [Educational Material to Assist ICANN in Deciding What Status The Corporation Should Aim for as A Private International Entity in Its Host Country](#) was made.
- **Operational readiness**
  - A contributor would like to review accountability mechanisms in place now, particularly in terms of operational readiness & compliance risk.
- **Timeline**
  - WS1 commitments were reiterated.
  - There are concerns about the overall timeline and a suggestion that the community should come up with its own timeline for how this work can be expected to happen.
- **Other links**
  - [ICANN Should Not Ululate Over "Booking.com" IRP Outcome: Decision Exposes Failure of Accountability](#)
  - [ICANN, copyright infringement, and "the public interest"](#)
  - [US election could trigger battle over Internet governance](#) (with a call for caution)
  - [Problem statement & definitions](#)

## WP1 – Community Empowerment ([archives](#))

The following items were circulated on the list:

- [Overview](#) of other AoC elements that need to be integrated;
- [Work Status](#)
- Removal of ICANN Board [template](#)
- Community veto [template](#)

## WP2 – Review & Redress ([archives](#))

An [article](#) written by Rolf Weber and Shawn Gunnarson in 2012 entitled “A Constitutional Solution for Internet Governance” was shared on the list. The article calls for a written charter and a constitutional court.

## WP2 – Compact & Mission ([archives](#))

A [strawman proposal](#) was shared on the list.

The [mission](#), as stated in the Bylaws and Articles of Incorporation, was circulated.

A contributor commented that ICANN should be required to carry out its mission in a manner that serves the public interest and that its obligation to serve the public interest should be constrained by its mission.

It was suggested that “mission and compact” should be incorporated into ICANN’s bylaws in a way that is both durable and invocable by those who are affected by ICANN’s actions and inactions, whether or not they are contracted parties.

## WP2 – Ombudsman ([archives](#))

A [link](#) to Ombudsman FAQs was circulated.

## WP2 – Reconsideration Subgroup ([archives](#))

[Initial thoughts](#) were shared on the mailing list.

## WP2 – Independent Review ([archives](#))

[initial thoughts](#) were circulated.