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Community Forum – PC2

(also incorporating discussion from the WP googledoc, the LA meeting and e-mails on the CCWG lists)

Areas of Consensus

Overall, there is broad support for the Forum and its purpose and function (encouraging discussion and sharing of information prior to exercising community powers and its place in the “petition – discussion – decision” process). One commenter suggested that the multistakeholder nature of the Forum should be highlighted as a key element of the community mechanism.

Also general support for a Forum that is open to broader participation beyond the ICANN community, and for open and transparent processes and documented discussion/output.

Areas Needing Refinement

While there is broad support for the Forum, many questions were raised in the public comment, the LA meeting and in e-mail exchanges on the CCWG lists:

1. **Triggers:** Commenters asked for clarity as to what the triggers are for initiating a community forum.
2. **Permanency:** A number of comments questioned whether the Forum should be permanent or ad hoc. One suggestion from the LA meeting was that it should be standing panel but called “as necessary”.
3. **Periodicity:** there was a general sense that the Forum could occur alongside the ICANN meetings but commenters also suggested the possible need for ad hoc meetings and that a Forum might, given the complexity of the issues, take a number of days. A further issue was how issues would be discussed between physical F2F Forum meetings – would there be virtual meetings. Questions were also raised as to the degree to which SO/ACs could be asked or should be expected to share information on issue/power in question.
4. **Composition and representation:** The number of representatives and from where was noted, whether they would be chosen from a slate of candidates or selected by the SOs/ACs. Questions were raised as to whether there would term limits, or the use of a NomCom. Additional comments suggested that the Forum should have access to legal counsel and could be modeled on a CCWG. One recommended the CCWG not talk of Forum “membership”. Another asked if participation by SOs and ACs should be mandatory.
5. **Standing (and outcomes):** A number of commenters asked whether or not the Forum would have any standing in terms of the discussion/outputs and whether the use of the Forum should be a mandatory part of the community powers process.
6. **Outcomes:** Commenters asked whether there should be “outcomes” of the Forum and what standing they would have. Additionally, the issue of whether or not the outcomes of the Forum would or should be taken into account in the decision to exercise the powers.

7. **Contradictory inputs:** (related to outcomes and standing of Forum) commenters queried how contradictory or opposing views in the Forum would be accounted for and what the implications of such views might be if the Forum outcomes were to have standing.
8. **Moderation:** Questions were raised over whether or not the Forum discussions would need to be moderated by a neutral party to ensure that all views were heard and appropriately noted and whether the discussions could be “mediated” to find consensus.
9. **Timescales:** There is concern that the timescales within the petition-discussion-decision process may be too short. In the case of the Forum there is concern that there would not be sufficient time to allow for the fullest of discussion given the importance of the powers.
10. **Costs:** A number of commentators queried whether the Forum would need funding – and what size of representation would be reasonably funded by ICANN.
11. **Relationship to SMCM decision-making:** As alluded to above, there are numerous questions about how the Forum relates to or impacts/contributes to SMCM decision-making. No particular suggestions were made as to how to integrate it (or not).
12. **Relationship to Public Accountability Forum:** questions raised related to whether or not the Forum would also be the PAF or what the relationship would be between the two.

Areas of Divergence

There are very few areas of clear divergence but the issue of whether the Forum should result in decisions or outcomes or not – and what the consequences of such outcomes would be on the decision-taking part of the process - has been raised in one form or another. See consensus model below.

Options for CCWG Consideration

Role and function of the Forum: The issue of the role of the forum and whether or not the forum and its outcomes has any standing has been extensively discussed, ranging from discussion only and used for information sharing to having some weighting in decision-taking w/r/t the powers.

One proposal floated through one of the breakout session in LA was that the Forum could be used to for getting consensus among the SOs and ACs on the exercising of a particular power (from the transcript):

The second thing is decision making. The community forum, as Jordan described yesterday morning, would be the basis for the decision making. The aim is to get consensus. So there would be debate back and forth to get to consensus. Consensus in this simple model is the ccNSO style. It says there's the absence of a strong objection. There's indications of support with the absence of a strong objection. I suppose that's a little bit different than the GAC style consensus. But they're awfully similar. If there isn't an opportunity, though, to tweak the language to gain consensus, right, if we were actually proposing something new as in a policy, we could often tweak the language to get to consensus. But this is a consideration of a yes/no, binary decision. Are we going to block the bylaw, or are we not going to block it? It's very hard to know how one compromises on that to get to consensus. Most of the consensus discussion would center around the rationale for why we ought to block the bylaw and what we want to do instead.

(In the consensus approach above the Forum's original role as a discussion and information sharing space is supplanted by a consensus building mechanism which seems to assume that the discussion and information phase has already occurred.)

Standing/ad hoc: The unpredictability of requests for a Forum may dictate the need for a standing "committee" of sorts that forms when called upon by the community. (Which raises another question which is could there be multiple challenges ongoing at the same time?)

Composition/representation: basing the Forum committee on a model we are familiar with – the CCWG - might make the most sense, with representation/terms, etc. to be determined in the Chartering phase.

Standing/outcomes: one option is to use the Forum to achieve consensus as noted above. Otherwise, it would be difficult to imagine that the outcomes of the Forum could have a specific weight in the deliberations of the SOs and ACs when they proceed with a vote to exercise of a particular power. In both situations it would seem that the Forum could have sufficient importance and role in the "petition – discussion – decision" process to warrant it being mandatory (assuming the triggers are of a high enough threshold).

Moderation/outcomes: in both the consensus and discussion model moderation is very likely going to be needed and therefore should be considered either through the selection of a member Forum "committee" or from outside (leave to Chartering).

Timescales: the proposed discussion period may well depend on the issue/challenge in question – some issues might warrant longer discussion period and could be at the discretion of the Forum "committee".