

Revised Mission, Commitments & Core Values			
Question 1: Do you agree that these recommended changes to ICANN's Mission, Commitments and Core Values would enhance ICANN's accountability?			
Question 2: Do you agree with the list of requirements for this recommendation? If not, please detail how you would amend these requirements.			
#	Contributor	Comment	CCWG Response/Action
98	<a href="#">Jan Scholte (JS) comment 1</a>	- Could tensions arise in practice between para 35 ('ICANN accountability requires compliance with applicable legislation in jurisdictions where it operates') and para 51/2/iii/2 ('any decision to defer to input from public authorities must be consistent with ICANN's Commitments and Core Values')?	<p><b>Concerns</b></p> <p><b>Summary / Impression:</b> Could tensions arise in practice between compliance with jurisdiction and decision to defer to input from authorities must be consistent with ICANN core values and commitments.</p> <p><b>Action Suggestion:</b> Consider need to reconcile limitation on compliance with deference to input from public authorities with both Commitments/Core Values and applicable law.</p> <p><b>CCWG Response:</b> To the extent ICANN is directly subject to any applicable law it must comply with that law, and nothing in the proposed Bylaws is intended to change that (nor could it). This reality is recognized in the proposed Core Values that calls on ICANN to comply with relevant principles of international law, applicable law, and international conventions.</p> <p>In the ICANN policy development context, however, "advice" from public authorities may go beyond what is required or prohibited by applicable law. In addition, the specifics of applicable law may vary from jurisdiction to jurisdiction. In discerning the global public interest through the bottom-up multistakeholder process, the Commitments and Core Values are designed to reflect widely established principles of fairness and due process, and to provide a stable and predictable foundation for ICANN policy development.</p> <p>The CCWG also notes that the ICANN Bylaws, including its Commitments and Core Values, do not and cannot displace the rights of sovereigns. All</p>

			governments retain the right and authority to apply their laws and regulations to actors and actors subject to their jurisdiction. International law provides other formal intergovernmental mechanisms to prescribe behaviors where international powers agree on a common standard.
99	<a href="#">DBA</a>	- Strengthened principles for ICANN, including a new Mission Statement, Commitments and Core Values, which i.e. aim at keeping ICANN within its technical mandate and focuses on its core mission.	<p><b>Agreement</b></p> <p><b>Summary / Impression:</b> Supports strengthened principles, including new mission statement and core values which aim at keeping ICANN's technical mandate and focuses on core mission.</p> <p><b>Actions suggested:</b> None.</p> <p><b>CCWG Response:</b> The CCWG thanks you for your comment.</p>
100	<a href="#">WC comment 2</a>	Has the working group, when it comes to tightening up the Principles section discussed whether to include a commitment towards freedom of expression? And the reason I raise this is that one of the accountability issues is the question of who the community as accountability forum is accountable to. And one of the answers is to say that ICANN as a whole is accountable to democratic standards. An important aspect of the logical infrastructure as a system of unique identifiers, that ICANN is to be the steward for, is that it is an infrastructure which underpins humanity's freedom of expression. And I was wondering if that has been discussed for inclusion in the revised Bylaws.	<p><b>Concerns</b></p> <p><b>Summary / Impression:</b> This raises a variety of "who is watching the watchers" questions</p> <p><b>Actions suggested:</b> Consider an explicit reference to freedom of expression as a Commitment and/or Core Value to further safeguard fundamental right.</p> <p><b>CCWG Response:</b> The revised ICANN Mission Statement explicitly provides that ICANN shall not engage in or use its powers to regulate services that use the Internet's unique identifiers, or the content that they carry or provide. As the commenter points out, this is not the same as an affirmative undertaking to promote free expression on the Internet.</p> <p>The CCWG-Accountability extensively discussed the opportunity to include into a Commitment related to human rights, within ICANN's stated Mission, in the ICANN Bylaws. The group</p>

			<p>commissioned a legal analysis of whether the termination of the IANA contract would induce changes into ICANN's obligations, within its defined Mission, with regards to Human Rights. While no significant issue was found to be directly linked to the termination of the IANA contract, the group acknowledged the recurring debates around the nature of ICANN's accountability towards the respect of fundamental human rights within ICANN's Mission. The group has achieved consensus on including a human rights related Commitment in ICANN's Bylaws within its defined Mission. However no particular wording currently proposed achieved consensus. Reiterating its commitment to articulate concrete proposals as part of its mandate, the CCWG-Accountability is calling for comments on this approach and the underlying requirements.</p>
1 o 1	<a href="#">DCA-T</a>	<p>Additional text for para 8g Employ open, transparent and bottom-up, [private sector led multistakeholder] policy development processes that (i) seeks input from the public, for whose benefit ICANN shall in all events act, (ii) promote well-informed decisions based on expert advice TO WHOM DUE DILIGENCE ON CONFLICT OF INTEREST HAS BEEN PERFORMED UPON, and (iii) ensure that those entities most affected can assist in the policy development process</p>	<p><b>Agreement – Concerns</b>  <b>Summary / Impression:</b>  - Current Bylaws are too weak and permit excessive discretion.  - Support limiting ability of ICANN Board to change Bylaws.</p> <p><b>Action Suggested:</b> Specifically call out that expert advice must be free from conflict of interest.</p> <p><b>CCWG Response:</b> The CCWG appreciates this input. ICANN policies currently include measures to prevent conflicts of interest.</p>
1 o 2	<a href="#">NM</a>	<p>We provide for changes in the by-laws, but it may be that we would be better off making clear that core principles are not subject to change. The ultimate goal of the organization is to act in the interest of the public as a whole, without special treatment of any business, private entity, individual, or government. The inherent founding principle that</p>	<p><b>Agreement – New Idea</b>  <b>Summary / Impression:</b>  - Clarify that core principles are not subject to change  - Goal of ICANN is to act in interest of public</p>

		<p>this entity exists for the overall public good and not for the commercial benefits of any individual or group should be a core principle that cannot be changed, no matter how many people go for it.</p>	<ul style="list-style-type: none"> <li>- Founding principle that ICANN exists for public good should be a core principle</li> </ul> <p><b>Actions suggested:</b></p> <ul style="list-style-type: none"> <li>- Prohibit changes to Commitments and Core Values</li> <li>- Create Core Value stating that ICANN exists for the overall public good and not for the commercial benefits of any individual or group</li> </ul> <p><b>CCWG response:</b>  ICANN exists, per its Mission Statement, to coordinate the global Internet's unique identifiers and ensure the stable and secure operation of those systems. The primary Commitment contained in the proposed Bylaws is that ICANN must operate for the benefit of the Internet community as a whole. The CCWG discussed the idea of making the Mission Statement, Commitments, and Core Values unchangeable, but ultimately concluded that so long as sufficient safeguards are in place to prevent capture, flexibility should be maintained. The Mission Statement, Commitments, and Core Values are, however, proposed as Fundamental Bylaws, which cannot be changed without community approval.</p>
103	<a href="#">Afnic</a>	<p>The revised Mission, Commitments and Core Values are more specific in the current draft that they were before. Clearer bylaws are an obvious enhancement for accountability.</p>	<p><b>Agreement</b></p> <p><b>Summary/Impression:</b></p> <ul style="list-style-type: none"> <li>- More specific in current draft than before</li> <li>- Clearer Bylaws are an obvious enhancement</li> </ul> <p><b>Action Suggested:</b> None</p> <p><b>CCWG response:</b> The CCWG thanks you for your comments</p>
104	<a href="#">DP-DK</a>	<p>- We have alternative proposals that strengthen the statement of ICANN's Mission so that it can serve effectively as an <i>enforceable</i> limitation on ICANN's powers (and we propose several "Stress Tests" to test the adequacy of our formulation).</p>	<p><b>Agreement – Concerns – New Idea</b></p> <p><b>Summary / Impression:</b>  CCWG has made significant progress in designing a durable accountability structure, but there are</p>

	<p>- One central risk of the transition is that a largely unregulated and unconstrained ICANN will leverage its power over the DNS to exercise control over non-DNS-related Internet conduct and content. ICANN has (and has always been conceived of as having) a limited technical mission: in the words of its current Bylaws, that mission is to “to coordinate, at the overall level, the global Internet’s systems of unique identifiers, and in particular to ensure the stable and secure operation of [those] systems.” It should exercise those powers (but <i>only</i> those powers) necessary to carry out that mission effectively. Articulating precisely what that mission is and what and those powers are, and doing so in a manner that will effectively circumscribe the exercise of the corporation’s powers and constrain its ability to exercise other powers, or to stray into policy areas outside of or unrelated to that mission, is a critical and indispensable task of the transition. The CCWG Draft Proposal recognizes this risk, and we strongly endorse its stated goals: (a) “that ICANN’s Mission is limited to <i>coordinating and implementing</i> policies that are designed to ensure the stable and secure operation of the DNS and are reasonably necessary to facilitate the openness, interoperability, resilience, and/or stability of the DNS;”; (b) that its Mission “does <i>not</i> include the regulation of services that use the DNS or the regulation of the content these services carry or provide,” and that (c) “ICANN’s powers are ‘enumerated’ – meaning that anything not articulated in the Bylaws are outside the scope of ICANN’s authority.” (emphases added).</p> <p>- The goals the CCWG is pursuing in this section of the CCWG Draft Proposal, and in the re-stated Mission, are critically important ones. We strongly support the central thrust of the CCWG recommendations, and believe it can be articulated even more directly than in the draft. ICANN’s Bylaws should explicitly recognize that the corporation’s role in DNS policy-making is limited to: “coordinat[ing] the development [of] and implementation of policies” that are (a) “developed through a bottom-up, consensus-based multistakeholder process,” (b) designed to “ensure the stable and secure operation of the DNS,” and for which (c) “uniform or coordinated resolution is reasonably necessary to facilitate the openness, interoperability, resilience, and/or stability of the DNS.” This helps to clarify that ICANN’s role (and, therefore, the</p>	<p>important omissions and/or clarifications that need to be addressed.</p> <p><b>Actions suggested:</b></p> <ul style="list-style-type: none"> <li>- Clarify and strengthen the separation between DNS policy-making and policy-implementation by limiting the role of the Board to (1) organize and coordinate ICANN’s policy development process and (2) implementation (only) of consensus policies emerging from that process</li> <li>- Revise proposed Mission Statement to read:       <p>“(a) ICANN’s Mission is to coordinate the development and implementation of policies that are developed through a bottom-up, consensus-based multistakeholder process, designed to ensure the stable and secure operation of the DNS, and for which uniform or coordinated resolution is reasonably necessary to facilitate the openness, interoperability, resilience, and/or stability of the DNS.</p> <p>“(b) ICANN shall have no power to act other than in accordance with, and as reasonably necessary to achieve, its Mission. Without in any way limiting the foregoing absolute prohibition, ICANN shall not engage in or use its powers to attempt the regulation of services that use the Internet’s unique identifiers, or the content that they carry or provide.””</p> </li> <li>- Adopt a new stress test to test the alternative formulation</li> </ul> <p><b>CCWG Response:</b> The CCWG appreciates this input, much of which has been reflected in the 2<sup>nd</sup> Draft Proposal.</p>
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	<p>primary role of its Board of Directors) is to <i>coordinate a consensus-based policy-development process, and to implement the policies that emerge from that process.</i></p> <ul style="list-style-type: none"><li>- A constitutional balance for the DNS must preserve and strengthen the separation between DNS <i>policy-making</i> and <i>policy-implementation</i>. ICANN's position in the DNS hierarchy gives it the <i>power</i> to impose its policies, via the web of contracts with and among registries, registrars, and registrants, on all users of the DNS. One critical constraint on the exercise of that power is that it is <i>not</i> free to impose on those third parties whatever policies it chooses – even those it believes in good faith to be in the “best interest” of those Internet users. It is the Internet stakeholder community, acting by consensus, that has the responsibility to formulate DNS policy. ICANN's job is a critical though narrow one: to <i>organize and coordinate</i> the activities of that stakeholder community – which it does through its various Supporting Organizations, Advisory Committees, and Constituencies – and to <i>implement</i> the consensus policies that emerge from that process.</li><li>- Power checks power. Although this separation has gotten muddier over the last 15 years, it has always been an essential component of ICANN's consensus-based, bottom-up policy development scheme – modeled, as it was, on the consensus-based, bottom-up processes that had proved so effective in managing the development and global deployment of the DNS and related Internet protocols in the period prior to ICANN's formation. It is a critical safeguard against ICANN's abuse of its power over the DNS. Effective implementation of this limitation will go a long way towards assuring the larger Internet community that ICANN will stick to its knitting – implementing policies which relate to the openness, interoperability, resilience, and/or stability of the DNS, arrived at by consensus of the affected communities.</li><li>- We believe that the implementation of this principle in the CCWG Draft Proposal can be substantially improved and strengthened. To begin with, it is not as clear and it could and should be that the statement of ICANN's Mission is meant to serve as <i>an enforceable limitation on ICANN's powers – i.e.,</i> that it is a means of enumerating those powers, and thereby of declaring what the corporation can, and</li></ul>	
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	<p>cannot, do. The Proposal's demarcation between and among ICANN's Mission, its "Core Values," and its "Commitments" is overly complex and confusing. It is not clear which are meant to be enforceable enumerations of the corporation's power – to be included in a Fundamental Bylaw and enforceable by the Independent Review Board - and which are more generally advisory or aspirational, "statements of principle rather than practice" that are "deliberately expressed in very general terms." By covering so much ground between them, the structure detracts from, rather than enhances, the force of those provisions that <i>are</i> designed to serve as actual limits on the corporation's powers (as opposed to those that are merely aspirational). There are many good reasons to state aspiration and advisory guides to future corporate action, but we suggest that they be more clearly separated from the enumerated powers.</p> <ul style="list-style-type: none"><li>- We also suggest that the relevant CCWG-proposed Bylaw provision – that "ICANN shall not undertake any other Mission not specifically authorized in these Bylaws" – may not function effectively to limit ICANN to activities within the narrowly-stated limits of its Mission. Precisely because the Mission, Core Values, and Commitments cover so much overlapping ground, there is a vast range of action that ICANN might take that could be justified with reference to some element or elements appearing on those lists, and thereby deemed to have been "specifically authorized in these Bylaws." We believe this could detract, importantly, from the effectiveness of the Mission statement as a meaningful limit on what ICANN can and cannot do.</li><li>- We propose the following alternative as a Fundamental Bylaw, which we suggest would be a clearer and more direct statement of the principle to be implemented and therefore more likely to be adequately enforceable: “(a) ICANN’s Mission is to coordinate the development and implementation of policies that are developed through a bottom-up, consensus-based multistakeholder process, designed to ensure the stable and secure operation of the DNS, and for which uniform or coordinated resolution is reasonably necessary to facilitate the openness, interoperability, resilience, and/or stability of the DNS; “(b) ICANN shall have no power to act other than in accordance with, and as</li></ul>	
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		<p>reasonably necessary to achieve, its Mission. Without in any way limiting the foregoing absolute prohibition, ICANN shall not engage in or use its powers to attempt the regulation of services that use the Internet's unique identifiers, or the content that they carry or provide.””</p>	
<p>1 o 5</p>	<p><a href="#">IA</a></p>	<ul style="list-style-type: none"> <li>- IA agrees that ICANN’s Mission Statement, Commitments, and Core Values are instrumental to ensuring and enforcing ICANN accountability, and supports the concept that they should form ICANN’s “constitutional core.” ICANN’s conduct should be measured against these provisions and ICANN must be accountable for meeting these standards, as well as for not exceeding its scope of responsibilities.</li> <li>- IA supports changes to ICANN’s Bylaws to impose binding obligations on ICANN to operate for the benefit of the Internet community as a whole, and to carry out its activities in accordance with applicable law, and international law and conventions through an open and transparent process.</li> <li>- The scope of ICANN’s authority should be specifically enumerated.</li> <li>- IA supports the clarification to ICANN’s Mission Statement that the scope of its authority does not include the regulation of services that use the DNS or the regulation of content these services carry or provide.</li> <li>- IA supports the clarification to the Core Values that any decision to defer to input from public authorities must be consistent with ICANN’s Commitments and Core Values</li> <li>- IA suggests the continued use of the phrase “private sector led” in the Bylaws and other documentation. The term has been used since ICANN’s inception to mean “non-governmental,” and not commercial. If any alternative term is used, it must be clear that it is meant that ICANN will remain non-governmental led.</li> <li>- IA, however, seeks clarification on the inclusion of new criteria associated with balancing commitments and core values. The new language appears to import concepts from U.S. constitutional law jurisprudence. But under U.S. law, these tests are typically applied when one fundamental value (e.g., equal protection or freedom of speech) is infringed, not when the courts are seeking to balance competing fundamental interests. And the proposed tests, while useful</li> </ul>	<p><b>Agreement</b></p> <p><b>Summary / Impression:</b></p> <ul style="list-style-type: none"> <li>- IA Supports the revised Mission Statement, Commitments and Core Values and supports the continues use of the phrase “private sector led”</li> <li>- IA seeks clarification on the new language for balancing Commitments and Core Values. According to IA (and other commenters) the proposed text is too US-centric and is typically applied when one fundamental value is being infringed, not when the courts “are seeking to balance competing fundamental interests.” IA concludes that the criteria do not provide guidance “as to how ICANN should actually balance competing interests.”</li> </ul> <p><b>Actions suggested:</b></p> <p>Clarify inclusion of new criteria associated with balancing commitments and core values. In favor of continued use of “private-sector led”</p> <p><b>CCWG response:</b></p> <p>The CCWG appreciates this input. A number of commenters were uncomfortable with the proposed balancing test, on the grounds that it might tend to favor inaction. We agreed with this input and modified the proposed balancing test language accordingly. Specifically, we have eliminated the test for balancing Commitments, on the grounds that these reflect ICANN’s fundamental compact with the community and are intended to apply consistently and</p>



		<p>for the context in which they were originally developed, do not provide any guidance as to how ICANN should actually balance competing interests. Unless CCWG can provide more information about how the new text would assist in decision-making, the Internet Association suggests retaining the existing language.</p>	<p>comprehensively to ICANN's activities. We retained the simpler proposed balancing test for competing Core Values.</p>
<p>1 o 6</p>	<p><a href="#">Govt-ES</a></p>	<p>The proposed text "<i>While remaining rooted in the private sector, recognizing that governments and public authorities are responsible for public policy and duly taking into account the public policy advice of governments and public authorities <u>in accordance with the Bylaws and to the extent consistent with these Fundamental Commitments and Core Values.</u></i>" Request the underlined text be deleted. Neither the current Bylaws nor the Articles of Incorporation limit the ability of governments to issue advice to the ICANN Board. This is because it would be ineffective as governments' would still be obliged to protect general public interests (paragraphs 68 and 69 of the Tunis Agenda and page 6 of the Net Mundial Statement). Moreover, this is not in the best interest of the global Internet community ICANN pledges to serve as managing the Internet system of unique identifiers in the public interest is the first and foremost mission of ICANN (sections 2 and 3 of the AoC and sections 3 and 4 of the Aol)</p> <ul style="list-style-type: none"> <li>- In this respect, acting for the benefit of the global Internet users and ensuring its decisions are made in the public interest should feature higher in the Bylaws, either in the definition of its mission or as one of its first core values.</li> <li>- Core values para 69. There is no justification to strike out the explicit mention to local law when reflecting this provision of the Aol into the Bylaws. Local law plays an essential role in ICANN's legal environment, as for instance data retention period or Whois accuracy issues easily prove.</li> </ul>	<p><b>Concerns Divergence – Confusion</b></p> <p><b>Summary / Impression:</b></p> <ul style="list-style-type: none"> <li>- The government of Spain objects to the proposed language that clarifies that ICANN's deference to public authorities must be tempered by adherence to ICANN's own Bylaws, including its Commitments and Core Values.</li> <li>- The government of Spain notes that any such limitation would be ineffective to the extent that ICANN's actions would be inconsistent with applicable principles of sovereignty or law.</li> <li>- The government of Spain believes that the principle of decision-making in the public interest should appear higher in the text.</li> <li>- The government objects to the removal of a reference to local law.</li> </ul> <p><b>Actions suggested:</b> Feature public interest higher in Bylaws. Reinstate core values p69.</p> <p><b>CCWG response: The CCWG appreciates this input.</b> A number of government commenters strongly objected to the proposed change in existing Core Value 11 which states that ICANN, "While remaining rooted in the private sector," should recognize "that governments and public authorities are responsible for public policy" and should duly taking into account governments' or public authorities' recommendations. After lengthy conversation, the CCWG proposes to address these concerns in two ways:</p>

			<ul style="list-style-type: none"> <li>• <i>First</i>, to remove confusion about the meaning of “private sector” in the ICANN Bylaws, we propose to expressly state that the private sector includes business stakeholders, civil society, the technical community and academia.</li> <li>• <i>Second</i>, we propose to remove the language that was read by some commenters to remove ICANN’s obligation to consult with the GAC on consensus Advice. Instead, we propose to amend Article XI of the Bylaws, to provide that each advisory committee should provide a rationale for its advice, with references to relevant applicable national or international law where appropriate. The proposed language also implements the recommendation of ATRT<sub>2</sub> requiring ICANN to work with the GAC to facilitate the GAC developing and publishing rationales for GAC Advice at the time Advice is provided.</li> <li>• <i>Third</i>, we propose to clarify that the Independent Review Process applies to all violations of the ICANN Bylaws, including violations resulting from ICANN’s action or inaction based on input from advisory committees or supporting organizations.</li> </ul>
107	<a href="#">RySG</a>	<p>- RySG notes a difference of opinion on language pertaining to ICANN “remaining rooted in the public sector.” We support the definition of Public Sector proposed in the draft proposal and do not believe that this clarifying language is inconsistent with the multi- stakeholder model. With respect to the obligation to avoid capture, it is not clear whether the CCWG-Accountability intends to address this through specific language or through community balancing mechanisms built</p>	<p><b>Agreement</b>  <b>Summary / Impression:</b></p> <ul style="list-style-type: none"> <li>- The Registry Stakeholder Group supports retention of ICANN’s obligation to remain “rooted in the public sector” and notes that this language is consistent with the multi-stakeholder model.</li> <li>- The RySG supports use of the proposed</li> </ul>

		<p>into the proposed community empowerment structure. We advise that this be achieved through the latter; otherwise defining and identifying instances of capture may be difficult and introduce subjectivities. We believe that the checks and balances described in the draft proposal, which will be reflected in the revised bylaws, help to avoid capture.</p> <ul style="list-style-type: none"> <li>- If implemented, the RySG believes the recommended changes to ICANN's mission, commitments and core values would help to enhance ICANN's accountability to the global multi-stakeholder community. They are more clearly and strongly articulated than in the existing bylaws.</li> <li>- We are especially supportive of the recommended clarification that ICANN's powers are enumerated.</li> <li>- RySG supports the list of requirements included in the recommendation, provided that the community has the ability to approve or reject any future changes initiated or advanced by the ICANN Board</li> </ul>	<p>community empowerment structure (rather than Bylaws language) to prevent capture.</p> <p><b>Actions suggested:</b> Clarify whether the CCWG intends to address capture through specific language or through community balancing mechanisms built into the proposed community empowerment structure.</p> <p><b>CCWG response:</b> The CCWG appreciates this input. The 2<sup>nd</sup> Draft Proposal contains a proposed additional Core Value that states that in performing its Mission, ICANN will strive to achieve a reasonable balance between the interests of different stakeholders.</p>
108	<p><a href="#">CCG</a></p>	<p>The proposed Mission provides that ICANN will be subject to international law. The only reference made to any particular convention in the proposal is with respect to WHOIS database adhering to privacy conventions. An exhaustive, or at the very least, an indicative list of applicable international treaties/conventions should be provided.</p>	<p><b>New Idea</b></p> <p><b>Summary / Impression:</b> The CCG suggests that an indicative list of applicable international treaties and conventions should be used to define ICANN's obligation to comply with international law.</p> <p><b>Actions suggested:</b> Provide a list of applicable international treaties/conventions</p> <p><b>CCWG response:</b> The CCWG appreciates this input, but decided not to catalogue applicable international treaties/conventions. Some of this may be addressed in the context of ongoing discussions regarding inclusion of a commitment to comply with fundamental human rights. In addition, the 2<sup>nd</sup> Draft Proposal clarifies that this applies to relevant principles of international law and conventions.</p>
109	<p><a href="#">BC</a></p>	<p>- BC, in general, supports the changes to ICANN's Bylaws in the areas of Mission, Commitments, and Core Values. When coupled with legally</p>	<p><b>Agreement New Idea</b></p> <p><b>Summary / Impression:</b> - The BC supports the changes to ICANN's</p>

	<p>enforceable community power to block, or in some cases approve, Board-proposed amendments to the Bylaws, these changes would enhance ICANN's accountability.</p> <ul style="list-style-type: none"> <li>- BC looks forward to IETF language on ICANN's mission with respect to protocol, port, and parameter numbers, which is still a missing element.</li> <li>- BC supports the CCWG proposal to limit the scope of ICANN's mission via the Bylaws: "ICANN shall not undertake any other Mission not specifically authorized in these Bylaws." (paragraph 60 on p.20). However, the BC proposes a change to the next sentence in paragraph 60, which now reads: "...ICANN shall not engage in or use its powers to attempt the regulation of services that use the Internet's unique identifiers, or the content that they carry or provide".</li> <li>- BC strongly support the proposition that ICANN should not attempt to establish obligations on non-contracted parties. Paragraph 60 should be clarified and we propose that it should read as follows: "<i>ICANN shall not engage in or use its powers to attempt to establish contractual obligations on companies with which it is not in privity of contract and shall not attempt to establish contractual obligations on contracted parties that are not agreed by such parties.</i>"</li> <li>- Regarding the balancing test among competing Commitments and Core Values, the BC seeks clarification as to why changes are needed to existing language. Any amendments to the existing language should promote prompt resolution of issues – not the lack of action. The BC strongly urges the CCWG to address this in the next iteration of the proposal.</li> <li>- BC supports the use of the phrase "private sector led" in the Bylaws.</li> <li>- BC supports ICANN's commitment stated in paragraph 336 (p.59), arising from the <i>Affirmation of Commitments</i> required review of gTLD expansions: "<i>ICANN will ensure that as it expands the top-level domain space, it will adequately address issues of competition, consumer protection, security, stability and resiliency, malicious abuse issues, sovereignty concerns, and rights protection.</i>" While paragraph 337 indicates this language will be added to the Bylaws core values section, it is only partially reflected in paragraph 107 (p.26), which adds the phrase "enhances consumer trust and choice". The BC therefore urges the CCWG</li> </ul>	<p>Mission Statement, Commitments, and Core Values.</p> <ul style="list-style-type: none"> <li>- The BC proposes to strengthen paragraph 60 to ensure that ICANN does not attempt to establish obligations on non-contracted parties.</li> <li>- The BC urges the CCWG to fully reflect the AoC obligations regarding new gTLD safeguards about malicious abuse, sovereignty concerns, and rights protection in the revised bylaws.</li> </ul> <p><b>Actions suggested:</b> Consider suggested language change. Clarify why changes are needed to existing language regarding balancing test among competing Commitments and Core Values.</p> <p><b>CCWG response:</b> The CCWG appreciates this input.</p> <p>WP2 discussed the suggestion put forth by the BC (Comment 109) and others comment to add language regarding contract issues: "<i>ICANN shall not engage in or use its powers to attempt to establish contractual obligations on companies with which it is not in privity of contract and shall not attempt to establish contractual obligations on contracted parties that are not agreed by such parties.</i>" The group felt that on balance this addition was not necessary. The limit on ICANN's ability to regulate services and content does not preclude ICANN from entering into contracts and enforcing its contracts in furtherance of its Mission. For example, a number of applicants for new gTLDs made voluntary commitments to better serve registrants and end users and to address concerns about competition, consumer</p>
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		<p><i>to implement the entire commitment from the Affirmation of Commitments, including "malicious abuse issues, sovereignty concerns, and rights protection"</i></p>	<p>protection, right protection, etc. Nothing about enforcing those voluntary commitments would be inconsistent with ICANN's Mission.</p> <p>A number of commenters were uncomfortable with the proposed balancing test, on the grounds that it might tend to favor inaction. We agreed with this input and modified the proposed balancing test language accordingly. Specifically, we have eliminated the test for balancing Commitments, on the grounds that these reflect ICANN's fundamental compact with the community and are intended to apply consistently and comprehensively to ICANN's activities. We retained the simpler proposed balancing test for competing Core Values.</p> <p>The full AOC commitment on expansion of the top level domain space will be remove added to the Review Section and modified to state: "In any expansion of the top-level domain space will address issues of competition, consumer protection, security, stability and resiliency, malicious abuse issues, sovereignty concerns, and rights protection."</p>
<p>1 1 o</p>	<p><a href="#">.UK</a></p>	<p>While we welcome the approach in this proposal, some of the wording needs more thought. (Wording like "to the extent feasible" and "where feasible," for example, rather negates ideas considered to be fundamental.) Given the significant role of the mission, commitments and core values in underpinning the new accountability structure, we would question why they should not be considered at the level of fundamental bylaws for allowing changes. Changes here should be at a minimum subject to rigorous debate and command good community support. Paragraph 56: This appears to duplicate text from paragraph 55, but with a different emphasis. We would note that ICANN does not coordinate the development and implementation of policy for ccTLDs</p>	<p><b>Agreement</b></p> <p><b>Summary / Impression:</b></p> <ul style="list-style-type: none"> <li>- More thought needed in wording.</li> <li>- Given significant role of mission, commitments and core values, why should they not be considered at level of fundamental bylaws for allowing changes.</li> <li>- Paragraph 56 is a duplicate from paragraph 55</li> </ul> <p><b>Actions suggested:</b> More thought needed in wording.</p>

		except in exceptional circumstances.	<p><b>CCWG response:</b> The CCWG appreciates this input. The 2<sup>nd</sup> Draft Proposal eliminates the "where feasible" language, creates the Commitments and Core Values as Fundamental Bylaws. The 2<sup>nd</sup> Draft Proposal does not modify or affect the manner in which ccTLD policies are developed.</p>
<p>1 1 1</p>	<p><a href="#">IAB</a></p>	<p>- We suggest a clarification to the following existing bylaws text in paragraph 56: "The mission of The Internet Corporation for Assigned Names and Numbers ("ICANN") is to coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems. In particular, ICANN: 1. Coordinates the allocation and assignment of the three sets of unique identifiers for the Internet, which are Domain names (forming a system referred to as "DNS"); Internet protocol ("IP") addresses and autonomous system ("AS") numbers; and Protocol port and parameter numbers; 2. Coordinates the operation and evolution of the DNS root name server system; 3. Coordinates policy development reasonably and appropriately related to these technical functions." We believe the verb "coordinates" gives the wrong impression about ICANN's core function, particularly for those outside of the ICANN community who are not familiar with the ecosystem of entities involved in developing and managing policies and identifier assignments related to core Internet registries. Furthermore, since there are many sets of unique identifiers that ICANN is not involved in administering, it would be more accurate to use the term "core Internet registries" rather than referring to the Internet's unique identifier systems. We suggest the edited text below to make both of these points more clear: "The mission of The Internet Corporation for Assigned Names and Numbers ("ICANN") is to support, at the overall level, core Internet registries, and in particular to ensure the stable and secure operation of those registries. In particular, ICANN: 1. Supports the allocation and assignment of values in three categories of registries as directed by the consensus processes in the responsible operational communities. These categories are Domain names (forming a system referred to as "DNS"); Internet protocol ("IP") addresses and</p>	<p><b>Agreement</b> <b>New Idea</b></p> <p><b>Summary / Impression:</b> The IAB suggests language clarifying ICANN's limited role with respect to coordination of unique identifiers for "core internet registries" rather than the whole of the Internet's "unique identifier systems."</p> <p><b>Actions suggested:</b> Consider suggested language</p> <p><b>CCWG response:</b> The CCWG appreciates and carefully considered this input. On balance, the CCWG elected to retain the reference to coordination, but clarified ICANN's limited Mission.</p>

		<p>autonomous system ("AS") numbers; and Protocol parameters; 2. Supports the operation and evolution of the DNS root name server system; 3. Supports policy development reasonably and appropriately related to the DNS." With these edits, we believe the paragraphs that further articulate ICANN's role (57-60) would not be necessary because item (1) circumscribes ICANN's mission to carrying out identifier allocation and assignment at the direction of the relevant communities. At the very least, it obviates the need for paragraph 59, which we view as unnecessarily constraining the relationship between the IETF and ICANN. That relationship has benefited from fluidity over the years and that characteristic should be preserved going forward.</p>	
<p>1 1 2</p>	<p><a href="#">USCIB</a></p>	<p>- Para 50, 71-76: The need to balance competing interests exists in ICANN's current Bylaws. USCIB seeks clarification as to why changes are needed to existing language. Any amendments to the existing language should promote prompt resolution of issues and not inactions. USCIB strongly urges the CCWG to address this in the next iteration of the proposal.</p> <p>- Para 58: The current draft does not contain ICANN's mission with respect to protocol, port, and parameter numbers (which is to be provided by IETF). We wait for this important element.</p> <p>- Para 60, para 337: We strongly support the proposition that ICANN should not attempt to establish obligations on non-contracted parties. Indeed, ICANN's entire multi-stakeholder structure is built on a self-regulatory system implemented through contractual obligations and thus ICANN can only establish contractual obligations on parties with which it has privity through a negotiated and mutually agreeable contract/amendment with such parties. Therefore, para 60 should be clarified and we propose that it should read as follows: "<i>ICANN shall not engage in or use its powers to attempt to establish contractual obligations on companies with which it is not in privity of contract and shall not attempt to establish contractual obligations on contracted parties that are not agreed by such parties.</i>"</p> <p>- We also note and support ICANN's obligation at paragraph 337, "ICANN will ensure that as it expands the top-level domain space, it will adequately address issues of competition, consumer protection, security, stability and resiliency, malicious abuse issues, sovereignty</p>	<p><b>Agreement – New Idea – Concerns</b></p> <p><b>Summary / Impression:</b></p> <ul style="list-style-type: none"> <li>- The USCIB supports the retention of the term "private sector"</li> <li>- The USCIB proposes to strengthen paragraph 60 to ensure that ICANN does not attempt to establish obligations on non-contracted parties.</li> <li>- USCIB also seeks clarification on the new language for balancing Commitments and Core Values.</li> <li>- The USCIB urges the CCWG to fully reflect the AoC obligations regarding new gTLD safeguards about malicious abuse, sovereignty concerns, and rights protection in the revised bylaws.</li> </ul> <p><b>Actions suggested:</b> Strengthen paragraph 60, clarify new language for balancing Commitments and Core Values and urge ICANN to reflect new gTLD AoC</p> <p><b>CCWG response:</b> The CCWG appreciates this input. WP2 discussed the suggestion to add language regarding contract issues: "<i>ICANN shall not engage in or use its powers to attempt to establish contractual obligations on companies with which it is not in privity of contract and shall</i></p>

	<p>concerns, and rights protection." Paragraph 337 says this language will be added to the bylaws core values section, which USCIB supports. However, the entirety of this section does not appear in the proposed bylaw core value changes proposed by the CCWG and we request that the entirety of this language be added.</p> <ul style="list-style-type: none"><li>- para 8g: We support the retention of the term "private sector." It is both historically accurate and an important element to retain.</li><li>- para 26g: The proposed text for insertion in the bylaws is "where feasible, and appropriate, depending on market mechanisms..... " We feel that there is a large range of opinions on the role of the market. The AoC, however, is stronger in its support of the marketplace, so we would suggest deleting the words "and appropriate".</li></ul>	<p><i>not attempt to establish contractual obligations on contracted parties that are not agreed by such parties."</i> The group felt that on balance this addition was not necessary. The limit on ICANN's ability to regulate services and content does not preclude ICANN from entering into contracts and enforcing its contracts in furtherance of its Mission. For example, a number of applicants for new gTLDs made voluntary commitments to better serve registrants and end users and to address concerns about competition, consumer protection, right protection, etc. Nothing about enforcing those voluntary commitments would be inconsistent with ICANN's Mission.</p> <p>A number of commenters were uncomfortable with the proposed balancing test, on the grounds that it might tend to favor inaction. We agreed with this input and modified the proposed balancing test language accordingly. Specifically, we have eliminated the test for balancing Commitments, on the grounds that these reflect ICANN's fundamental compact with the community and are intended to apply consistently and comprehensively to ICANN's activities. We retained the simpler proposed balancing test for competing Core Values.</p> <p>The full AOC commitment on expansion of the top level domain space will be remove added to the Review Section and modified to state: "In any expansion of the top-level domain space will address issues of competition, consumer protection, security, stability and resiliency, malicious abuse issues, sovereignty concerns, and rights protection."</p>
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			Finally, the 2 <sup>nd</sup> Draft Proposal implements the USCIB's suggestion to remove the "feasible and appropriate" language.
1 1 3	<a href="#">LINX</a>	<p>- We consider it essential that ICANN adopt a Mission in its Bylaws that is sufficiently clear to be justiciable – that is, for an independent body to objectively rule on whether a particular action is authorised by the Mission or is ultra vires.</p> <p>- LINX emphasises the importance of the following points: a. We support the clarification that ICANN's Mission is limited to the enumerated powers, and we agree with the CCWG's proposed statement of what the Mission is;</p> <p>b. We support the inclusion of an explicit statement that ICANN's Mission does not include the regulation of services that use the DNS, or the regulation of the content these services carry or provide; c. We congratulate the CCWG on finding an imaginative way to identify certain Core Values as "Commitments" that should be adhered to absolutely, without need to balance against each other, while others may involve trade-offs. We support the chosen Commitments.</p> <p>- LINX is concerned by the reference to the "global public interest" in paragraph 105: a. We would strongly object to the inclusion of a general, unqualified commitment to the "global public interest" as this amounts to a general authorisation for the decision-maker to do whatever they feel is best in their almost unconstrained discretion. That would be inappropriate; b. Paragraph 105 qualifies the "global public interest" with "identified through the bottom-up, multistakeholder policy development process and are accountable, transparent, and respect the bottom-up multistakeholder process"; c. In our view this improves the term, but still risks asking the ICANN community, through the PDP, to seek to fix all the troubles in the world, and inviting them to take ICANN beyond its defined mission in pursuit of the global public interest as the ICANN community sees it. We would therefore remove the reference to "the global public interest" in Paragraph 105.</p>	<p><b>Agreement</b></p> <p><b>Summary / Impression:</b> Linx generally supports the proposed changes to the Mission Statement, Commitments and Core values but seeks a clarification to the term "global public interest" to ensure that ICANN (a) remains within its limited mission and (b) identifies public interest values consistent with that mission through the bottom up multi-stakeholder process.</p> <p><b>Actions suggested:</b> Clarify "global public interest".</p> <p><b>CCWG response:</b> The CCWG appreciates this input. The group extensively discussed the issue of defining the "global public interest" identified by this commenter and others. The 2<sup>nd</sup> Draft Proposal incorporates a number of changes designed to prevent Mission creep in the name of ensuring the "global public interest."</p>
1 1 4	<a href="#">JPNIC</a>	Yes. We believe it enhances ICANN's accountability by clearly defining the scope of ICANN's missions, to ensure ICANN focuses to conduct its activities within this scope. We especially find it important, that "ICANN's Mission does not include the regulation of services that use the DNS or the regulation of the content these services carry or	<p><b>Agreement</b></p> <p><b>Summary / Impression:</b> JPNIC supports the proposed revisions to the Mission Statement, Commitments, and Core Values and believes that ICANN should defer to input from public authorities that is consistent with</p>

		<p>provide” We also agree to designate certain Core Values as Commitments listed below, which are all essential principles in ensuring ICANN remains accountable in maintaining the stability of the Internet and how the Internet and bottom up, transparent, open form should be facilitated.</p> <ol style="list-style-type: none"> <li>1. Preserve and enhance the stability, reliability, security, global interoperability, resilience, and openness of the DNS and the Internet</li> <li>2. Limit its activities to those within ICANN’s Mission that require or significantly benefit from global coordination;</li> <li>3. Employ open, transparent, bottom-up, multistakeholder processes; and</li> <li>4. Apply policies consistently, neutrally, objectively and fairly, without singling any party out for discriminatory treatment.</li> </ol> <p>Yes, agree with the requirements listed help ensure that ICANN’s mission is more clearly described, based on what has been commonly shared and agreed by the ICANN community, that ICANN conducts its activities under its scope, ensures stability and reliability of its services. We also agree that ICANN should defer to input from public authorities to be consistent with ICANN’s Commitments and Core Values. This is an important point to cover.</p>	<p>ICANN’s Commitments and Core Values.</p> <p><b>Actions suggested:</b> None</p> <p><b>CCWG response:</b> The CCWG appreciates this input.</p>
<p>1 1 5</p>	<p><a href="#">IPC</a></p>	<ul style="list-style-type: none"> <li>- Generally agrees with the recommended changes to ICANN’s Mission, Commitments, and Core Values. These changes help create a culture of accountability within the organization.</li> <li>- IPC is concerned that the proposal in paragraph 6o to add to the Bylaws a statement that “ICANN shall not engage in or use its powers to attempt the regulation of services that use the Internet’s unique identifiers or the content that they carry or provide” could be read too broadly. We assume there is no intent here to constrain ICANN’s ability to enter into or enforce contractual provisions that require those making these identifiers available to take into account how they are used in specified circumstances – for example, to require domain name registration services to adopt and enforce policies against prohibited or abusive uses of domain names. We urge that this very broad proposed language be reviewed and refined to reduce the risk of any interpretation that would constrain ICANN’s ability to enforce its contractual obligations.</li> </ul>	<p><b>Agreement Concerns</b></p> <p><b>Summary / Impression:</b> The IPC general supports the proposed revisions to the ICANN Mission Statement, Commitments, and Core Values, but is concerned that the prohibition on regulation of services or content could be read to constrain ICANN’s authority to enter into and enforce contract prohibitions on abusive use of the domain name system.</p> <p><b>Actions suggested:</b> Clarify p6o.</p> <p><b>CCWG response:</b> The CCWG appreciates this input, and discussed the suggestion to add language regarding contract issues: <i>“ICANN shall not engage in or use its powers to attempt to establish contractual obligations on companies with which it is not in privity of contract and shall not</i></p>

		<p>- Agrees with the requirements for this recommendation. Given recent events it is clear that maintaining a strict definition of ICANN's mission and scope is essential to organizational performance and operational accountability.</p>	<p><i>attempt to establish contractual obligations on contracted parties that are not agreed by such parties."</i> The group felt that on balance this addition was not necessary. The limit on ICANN's ability to regulate services and content does not preclude ICANN from entering into contracts and enforcing its contracts in furtherance of its Mission. For example, a number of applicants for new gTLDs made voluntary commitments to better serve registrants and end users and to address concerns about competition, consumer protection, right protection, etc. Nothing about enforcing those voluntary commitments would be inconsistent with ICANN's Mission.</p>
1 1 6	<a href="#">Govt-BR</a>	<p>Brazil fully supports the suggestion of incorporating ICANN's specific mission into its bylaws (p.19 -20). Moreover, we support that the global multistakeholder community should be provided with accountability mechanisms to ensure that the corporation acts strictly in accordance with its mission.</p> <p>- References to the leadership of the private sector ("private sector led", "rooted in the private sector") are inadequate and contradict the spirit of multistakeholderism that should govern the corporation. The fact that ICANN is currently incorporated as a "non-profit organization" reinforces this understanding.</p>	<p><b>Agreement</b></p> <p><b>Summary / Impression:</b> The government of Brazil supports the proposed revisions to the ICANN Mission Statement.</p> <p><b>Actions suggested:</b> None</p> <p><b>CCWG response:</b> The CCWG appreciates this input. We have modified the reference to private sector leadership to clarify that it refers to commercial stakeholders, civil society, the technical community, and academia.</p>
1 1 7	<a href="#">MPAA</a>	<p>- Paragraph 337 notes that the language in paragraph 336 will be added to the Bylaw Core Values, however this language doesn't appear in the proposed Bylaw Core Values updates proposed by the CCWG. MPAA supports the obligation reference in 336 and we suggest the language, in its entirety, be added.</p> <p>- The proposed language in paragraph 60 is too broad. While we strongly support the notion that ICANN must not attempt to regulate non- contracted parties, we also assume it is not the intent to constrain ICANN's ability to enter into, interpret or enforce contractual obligations. The new accountability mechanisms must not minimize ICANN's ability to enforce contractual obligations and these obligations</p>	<p><b>Agreement Concerns</b></p> <p><b>Summary / Impression:</b> The MPAA generally supports the proposed revisions to the ICANN Mission Statement, Commitments, and Core Values, but is concerned that the prohibition on regulation of services or content could be read to constrain ICANN's authority to enter into and enforce contract prohibitions on abusive use of the domain name system.</p> <p><b>Actions suggested:</b> Refine paragraph 60.</p>

		should be negotiated as they have been in the past, with ample input from the global multi-stakeholder community.	<p><b>CCWG response:</b> The CCWG appreciates this input, and discussed the suggestion to add language regarding contract issues: <i>"ICANN shall not engage in or use its powers to attempt to establish contractual obligations on companies with which it is not in privity of contract and shall not attempt to establish contractual obligations on contracted parties that are not agreed by such parties."</i> The group felt that on balance this addition was not necessary. The limit on ICANN's ability to regulate services and content does not preclude ICANN from entering into contracts and enforcing its contracts in furtherance of its Mission. For example, a number of applicants for new gTLDs made voluntary commitments to better serve registrants and end users and to address concerns about competition, consumer protection, right protection, etc. Nothing about enforcing those voluntary commitments would be inconsistent with ICANN's Mission.</p>
1 1 8	<a href="#">CDT</a>	<p>- CDT fully support the proposed changes to ICANN's Mission, Commitments and Core values. We believe that these changes – and particularly the notion of enumerated powers – should ensure that ICANN respects and acts in conformance with its mission and that any attempts to change that mission must be subject to greater thresholds and to community assent.</p> <p>- CDT supports the more detailed elaboration of the core values and commitments and agree with the strict limitations that the proposal suggests with regard to "balancing" one core value with another.</p> <p>- CDT support the incorporation of the Affirmation of Commitments (AoC). The AoC's reviews and other provisions that specifically lay out a series of expectations of behavior and similar commitments are key components of the overall enhancement of ICANN's accountability. Their inclusion is essential.</p>	<p><b>Agreement</b></p> <p><b>Summary / Impression:</b></p> <ul style="list-style-type: none"> <li>- CDT supports the proposed revisions to ICANN's Mission Statement, Commitments, and Core Values, including the revised balancing test.</li> <li>- CDT supports the incorporation of the AoC reviews and other provisions as essential components of ICANN's accountability.</li> </ul> <p><b>Actions suggested:</b> None</p> <p><b>CCWG response:</b> The CCWG appreciates this input.</p>
1 1 9	<a href="#">USCC</a>	<p>- Yes, the recommended changes do represent a positive move towards enhancing ICANN's accountability. We want to encourage the CCWG to stay the course on creating assurances that accountability mechanisms</p>	<p><b>Agreement Concerns</b></p> <p><b>Summary / Impression:</b></p> <ul style="list-style-type: none"> <li>- USCC supports the revised Mission Statement, Commitments and Core</li> </ul>

		<p>are binding.</p> <ul style="list-style-type: none"> <li>- Yes we support the list of requirements included in the recommendation, but this support is contingent on the community having the ability to approve or reject any changes that the ICANN Board seeks to implement in the future.</li> <li>- however, wish to raise concerns with one bylaws change regarding modifying the “balancing” language describing how ICANN will evaluate situations when one commitment must be reconciled with another commitment or core value. This new language, closely tracks language on “strict scrutiny” and “intermediate scrutiny” tests that are a part of U.S. legal jurisprudence. These standards were not developed to be used to weigh multiple competing interests or values. Therefore, the original language covering balance and reconciliation of competing values ought to be retained.</li> <li>- However, in order to avoid confusion and ensure ICANN is able to best serve its core mission, we suggest the language in 337 be added to the bylaws. We further suggest paragraph 60 be amended to indicate that without prejudice to ICANN’s ability to interpret or efforts to ensure compliance with its contracts, ICANN does not enjoy broad regulatory authority and will not engage in or use its power to regulate entities with which it does not have a contractual relationship, and shall not attempt to establish additional requirements on parties beyond those to which the parties agree.</li> </ul>	<p>Values and supports the continues use of the phrase “private sector led”</p> <ul style="list-style-type: none"> <li>- USCC is concerned about the new language for balancing Commitments and Core Values. According to IA (and other commenters) the proposed text is too US-centric and is typically applied when one fundamental value is being infringed, not when the courts “are seeking to balance competing fundamental interests.” IA concludes that the criteria do not provide guidance “as to how ICANN should actually balance competing interests.”</li> </ul> <p><b>Actions suggested:</b> Add language in 337 to Bylaws and amend paragraph 60.</p> <p><b>CCWG response:</b> The CCWG appreciates this input. A number of commenters were uncomfortable with the proposed balancing test, on the grounds that it might tend to favor inaction. We agreed with this input and modified the proposed balancing test language accordingly. Specifically, we have eliminated the test for balancing Commitments, on the grounds that these reflect ICANN’s fundamental compact with the community and are intended to apply consistently and comprehensively to ICANN’s activities. We retained the simpler proposed balancing test for competing Core Values.</p>
<p>1 2 o</p>	<p><a href="#">INTA</a></p>	<p>- Agrees with these recommendations but would like to see the Community have the ability to challenge a decision made by ICANN on the basis that it contravenes one or more of the mission statements, Affirmation of Commitments (“AoC”), or core values. Such a challenge</p>	<p><b>Agreement</b></p> <p><b>Summary / Impression:</b> INTA generally agrees with the proposed revisions to the Mission Statement, Commitments, and Core values, but supports a community challenge</p>

		<p>should be arbitrated by a third party and the procedure for any arbitration procedures should be outlined in advance.</p> <ul style="list-style-type: none"> <li>- Agrees in principle with enumerated goals and recommendations. However, there must be accountability to the Internet community of governments, NGOs, and individual stakeholders, each of whom should have available a mechanism to challenge a decision by ICANN.</li> <li>- With regard to the proposed incorporation of AoC paragraph 7, we note that the introductory provision of a new Section 8 in Article II of the Bylaws presently reads, "ICANN <b>shall</b> adhere to transparent and accountable budgeting processes, <b>providing [reasonable] [adequate] advance notice to facilitate stakeholder engagement in policy decision-making...</b>" We believe that the use of the term "advance" is insufficient, as ICANN often provides inadequate time for comment periods, and the resulting limitation on adequate review is especially difficult for large membership organizations such as INTA, which represents trademark professionals from around the world. Therefore, we recommend that this phrase read, "providing reasonable and adequate advance notice."</li> </ul>	<p>mechanism.</p> <p><b>Actions suggested:</b> Strengthen "advance" – consider "providing reasonable and adequate advance notice"</p> <p><b>CCWG response:</b> The proposed changes to the Independent Review contemplate a community challenge. The 2<sup>nd</sup> Draft Proposal provides for a community rejection of the budget and strategic plan.</p>
1 2 2	<a href="#">.NZ</a>	<ul style="list-style-type: none"> <li>- The changes would improve the clarity of ICANN's mission and make it easier for the community to ensure that the organisation doesn't engage in scope creep.</li> <li>- The reconciliation test set out on page 17 of the report is also an improvement on the current language in the Bylaws.</li> <li>- Making these parts of the bylaws hard to change without broad community support would also help give assurance that ICANN won't engage in scope creep.</li> </ul>	<p><b>Agreement</b></p> <p><b>Summary / Impression:</b></p> <ul style="list-style-type: none"> <li>- .NZ supports the proposed changes to ICANN's Mission Statement, Commitments, and Core Values.</li> <li>- .NZ also supports the revised balancing test, and inclusion of these provisions as Fundamental Bylaws.</li> </ul> <p><b>Actions suggested:</b> None</p> <p><b>CCWG response:</b> The CCWG thanks you for your comments.</p>
1 2 2	<a href="#">HR2251</a>	<ul style="list-style-type: none"> <li>- Control over the management of the Internet domain name system will not be exercised by a governmental or intergovernmental body.</li> <li>- The bylaws of ICANN have been amended to provide for the following: No director or officer of ICANN may be selected by or represent a governmental or intergovernmental body.</li> <li>- The board of directors of ICANN is prohibited from voting on advice or</li> </ul>	<p><b>Summary / Impression:</b> The comment consists of proposed United States legislation that has been superseded by subsequent events.</p> <p><b>Actions suggested:</b> None</p>

		<p>a policy proposal offered by the Governmental Advisory Committee unless such Committee reaches consensus regarding such advice or proposal. For purposes of the preceding sentence, the term "consensus" means general agreement in the absence of any formal objection.</p> <ul style="list-style-type: none"> <li>- ICANN is committed to upholding freedom of speech, freedom of the press, freedom of assembly, and freedom of association and has adopted and implemented standards that are at least as protective of such freedoms as is the First Amendment to the Constitution.</li> <li>- ICANN is prohibited from engaging in activities unrelated to ICANN's core mission or entering into an agreement or modifying an existing agreement to impose on a registrar or registry with which ICANN conducts business any condition (such as a condition relating to the regulation of content) that is unrelated to ICANN's core mission.</li> </ul>	<p><b>CCWG response:</b> The CCWG appreciates this input. The 2<sup>nd</sup> Draft Proposal incorporates many safeguards designed to prevent mission creep.</p>
<p>1 2 3</p>	<p><a href="#">NCSG</a></p>	<p>No ICANN action should violate fundamental human rights. We therefore welcome and note with approval that the call to forebear from content regulation in the mission statement section shows a positive concern for human rights.</p> <ul style="list-style-type: none"> <li>- The NCSG supports a clear statement of ICANN's limited technical mandate. We agree that ICANN's mission should be limited to the coordination and implementation of policies and procedures required to facilitate the stable and secure operation of the DNS.</li> <li>- We applaud the recognition that ICANN's Mission does not include the regulation of services that use the DNS or regulation of the content that these services carry or provide.</li> <li>- We also applaud the CCWG's recognition that the existing bylaw language describing how ICANN should apply its Core Values is weak and permits ICANN to exercise excessive discretion.</li> <li>- In paragraphs 69-100 NCSG believes the CCWG should avoid overly broad references to furthering "the public interest;" such references should be more specific and refer to a "public interest goal within ICANN's mandate." ICANN does not have a mandate to pursue the general public interest; it is intended to serve the public interest only within its narrow DNS-related scope of activity.</li> <li>- Paragraph 105 There is horribly redundant wording here: "ensure that decisions are made in the global public interest identified through the</li> </ul>	<p><b>Agreement – Concerns – New Idea</b></p> <p><b>Summary / Impression:</b></p> <ul style="list-style-type: none"> <li>- The NCSG agrees that ICANN should forebear from content regulation and supports the proposed revisions to ICANN's Mission, Commitments, and Core Values.</li> <li>- The NCSG supports the revised balancing test</li> <li>- The NCSG is concerned about overly broad references to the "public interest" – suggests clarification to ensure ICANN remains within the scope of its mission</li> <li>- The NCSG proposes revised wording for paragraphs 105, 107, and 110</li> <li>- NCSG has consistently recommended that ICANN adopt the "Respect, Protect, and Remedy" framework</li> </ul> <p><b>Actions suggested:</b> Clarify "public interest" and consider wording for paragraphs 105, 107, and 110</p> <p><b>CCWG response:</b> The CCWG appreciates this input. The 2<sup>nd</sup> Draft Proposal focuses on the need to ensure that ICANN</p>

	<p>bottom-up, multistakeholder policy development process and are accountable, transparent, and respect the bottom-up multistakeholder process." This should be simplified to: "Ensure that the bottom-up, multistakeholder policy development process is used to ascertain the global public interest and that those processes are accountable and transparent."</p> <p>- Paragraph 107 We prefer the original wording, with the exception of adding "in the DNS market." The current revision muddles and undermines the clear intent of this passage, which was to encourage ICANN to rely on competition and market mechanisms. The addition of the words "healthy" and "enhances consumer trust" introduce vague criteria that in many ways contradict competitive market criteria. The addition of "consumer choice" is unnecessary as that value is already encompassed by a commitment to competition.</p> <p>- Paragraph 110 This paragraph is incorrect as it currently stands; it says "governments and public authorities are responsible for public policy." As ICANN deals with a global arena, it should say that "governments and public authorities are responsible for public policy in their jurisdictions." We also believe that the phrase "duly taking into account the public policy advice of governments" should be changed to "duly taking into account the advice of the GAC," as it is GAC - not "governments" - that formally provide advice to the board under the bylaws and not all of its advice deals with public policy.</p> <p>- We fully support the changes to the Core Values and the designation that certain Core Values are considered Commitments - values that should rarely (if at all) be balanced against each other - and the incorporation of various provisions from the Affirmation of Commitments. We support the addition of respect for Human rights to the core values and support the addition of an obligation for human rights impact analyses for ICANN decisions to the mission. <u>NCSG has consistently recommended that ICANN adopt the "Respect, Protect, and Remedy" framework which was developed for private corporations and that ICANN benchmark its human rights compliance by joining the Global Network Initiative. These would provide simple ways to further strengthen this core value.</u></p>	<p>stays within its Mission, and that in carrying out its Mission the bottom-up multistakeholder policy development process is used to identify the public interest. The Draft also revises the language of paragraphs 105 and 107. While we understand the objection to paragraph 110, the CCWG elected to retain the current Bylaws wording.</p> <p>The CCWG-Accountability extensively discussed the opportunity to include into a Commitment related to human rights, within ICANN's stated Mission, in the ICANN Bylaws. The group commissioned a legal analysis of whether the termination of the IANA contract would induce changes into ICANN's obligations, within its defined Mission, with regards to Human Rights. While no significant issue was found to be directly linked to the termination of the IANA contract, the group acknowledged the recurring debates around the nature of ICANN's accountability towards the respect of fundamental human rights within ICANN's Mission. The group has achieved consensus on including a human rights related Commitment in ICANN's Bylaws within its defined Mission. However no particular wording currently proposed achieved consensus. Reiterating its commitment to articulate concrete proposals as part of its mandate, the CCWG-Accountability is calling for comments on this approach and the underlying requirements.</p>
<p>1 2</p>	<p>Clearly defining ICANN's mission and putting into place efficient and</p>	<p>Agreement Concerns Summary / Impression:</p>



4		<p>effective institutional mechanisms for enforcing those limitations is the most important element of the ICANN accountability reforms. I applaud the recognition that ICANN’s Mission does not include the regulation of services that use the DNS or the regulation of the content these services carry or provide. I hope this can serve as a strong constraint on existing and future ICANN contracts, some of which already violate that principle. I also agree with the CCWG’s recognition that the existing bylaw language regarding the application of ICANN’s Core Values is weak and permits ICANN to exercise excessive discretion. That being said, there are still elements in the draft that lend themselves to an expansive mission. In paragraphs 69-110, there are many references to furthering “the public interest.” These references need to be modified to refer only to a “public interest in the openness, interoperability, resilience, security and/or stability of the DNS” or a “public interest goal within ICANN’s mandate.” Paragraph 107, which was intended to encourage ICANN to rely on competition and market mechanisms rather than top-down regulation, has also been altered in a way that suggests a more expansive vision of ICANN’s remit. The addition of the concepts “healthy” and “enhances consumer trust” introduce vague criteria that differ from and may contradict competitive market criteria. The addition of “consumer choice” is unnecessary as that value is already encompassed by a commitment to competition. In general, I prefer the original wording, with the exception of adding “in the DNS market.”</p> <p>Paragraph 110 fundamentally misrepresents the role of governments in ICANN. Currently it says that “governments and public authorities are responsible for public policy.” As ICANN deals with a global arena, it should say that “governments and public authorities are responsible for public policy <i>in their jurisdictions</i>.” We also believe that the phrase “duly taking into account the public policy advice of governments” should be changed to “duly taking into account the advice of the GAC,” as it is GAC and not “governments” that formally provide advice to the board under the bylaws, and not all of its advice deals with public policy.</p>	<ul style="list-style-type: none"> <li>- MM agrees that ICANN should forebear from content regulation and supports the proposed revisions to ICANN’s Mission, Commitments, and Core Values.</li> <li>- MM is concerned about overly broad references to the “public interest” – suggests clarification to ensure ICANN remains within the scope of its mission</li> <li>- The NCSG proposes revised wording for paragraph 107 and 110</li> </ul> <p><b>Actions suggested:</b> Clarify “public interest”</p> <p><b>CCWG response:</b> The CCWG appreciates this input. The 2<sup>nd</sup> Draft Proposal focuses on the need to ensure that ICANN stays within its Mission, and that in carrying out its Mission the bottom-up multistakeholder policy development process is used to identify the public interest. The Draft also revises the language of paragraphs 105 and 107. While we understand the objection to paragraph 110, the CCWG elected to retain the current Bylaws wording.</p>
1 2 5	<a href="#">GG</a>	<p>Google does not support the CCWG-Accountability’s proposed revisions to bylaws language addressing balancing and reconciliation of competing core values. In its Proposal, the CCWG-Accountability</p>	<p><b>Agreement Concerns</b></p> <p><b>Summary / Impression:</b> Google is concerned about the new language for balancing Commitments and Core Values.</p>

		<p>proposes modifying the “balancing” language in the bylaws to describe how ICANN will evaluate situations when one commitment must be reconciled with another commitment or core value. This new language, which among other 2 things requires some reconciliations to be “justified by an important, specific, and articulated public interest goal. . . [and] narrowly tailored using the least restrictive means reasonably available,” appears to be taken from so-called “strict scrutiny” tests that U.S. courts use to 3 evaluate First and Fourteenth Amendment challenges. The proposal suggests that in reconciling core values, ICANN should use a version of the U.S. Supreme Court’s intermediate scrutiny tests/. These standards are not appropriate for ICANN. In situations where U.S. courts employ strict or intermediate scrutiny tests, there is usually only one core value to be upheld (e.g., free speech, equal protection). These tests are not designed to provide guidance when balancing multiple compelling interests that lead to different conclusions. For that reason, the tests often favor governmental inaction. But in the face of competing core values, the Internet ecosystem depends on ICANN continuing to act, albeit in a way as faithful as possible to the many interests at stake. The strict scrutiny test does not provide ICANN with any guidance for how to address this conundrum, nor does it provide any predictability for the community that depends on ICANN’s decision. We recognize, however, that the current test is vague: it, too, provides little guidance to the ICANN board and staff and little predictability to parties affected by ICANN’s actions. At its core, the bylaws provision amounts to an exhortation that ICANN bodies to “exercise [their] judgment.” We urge the CCWG-Accountability to develop a proposal that provides 5 meaningful guidance in balancing ICANN’s commitments and core values, while avoiding a bias in favor of preserving the status quo, even if the status quo itself does not represent the best effort to balance competing commitments and core values.</p>	<p>According to IA (and other commenters) the proposed text is too US-centric and is typically applied when one fundamental value is being infringed, not when the courts “are seeking to balance competing fundamental interests.” IA concludes that the criteria do not provide guidance “as to how ICANN should actually balance competing interests.”</p> <p><b>Actions suggested:</b></p> <p><b>CCWG response:</b> The CCWG appreciates this input. A number of commenters were uncomfortable with the proposed balancing test, on the grounds that it might tend to favor inaction. We agreed with this input and modified the proposed balancing test language accordingly. Specifically, we have eliminated the test for balancing Commitments, on the grounds that these reflect ICANN’s fundamental compact with the community and are intended to apply consistently and comprehensively to ICANN’s activities. We retained the simpler proposed balancing test for competing Core Values.</p>
<p>1 2 6</p>	<p><a href="#">Board</a></p>	<p>How will the principles proposed to enhance and improve the Mission and Core Values of ICANN be tested against the bylaws in their entirety? Given that modifying the Mission and Core Values was not part of the community discussion at the Singapore meeting, what is the CCWG-Accountability doing to highlight this change as part of the suite</p>	<p><b>Concerns – Confusion</b></p> <p><b>Summary / Impression:</b></p> <p>The Board questions how the revised language will be tested. The Board expresses concerns that this language was not part of the discussion in Singapore.</p>

		<p>of recommendations? In asking this question, we are supportive of the idea that the mission statement and core values should be refined.</p>	<p><b>Actions suggested:</b></p> <p><b>CCWG response:</b> The CCWG appreciates this input. The proposed revisions to the Mission, Commitments, and Core Values have existed in draft form since January of this year and were discussed in Singapore. We received numerous comments on these changes in the first comment period, and modified the proposal in response.</p>
<p>1 2 7</p>	<p><a href="#">CENTR</a></p>	<p>- The recommendations in the draft include revising ICANN’s Bylaws to clarify the scope of ICANN’s policy authority, reflect key elements of the Affirmation of Commitments, and establish a set of “Fundamental Bylaws” which can eventually be amended based on prior approval by the Community. While we agree that ICANN’s Mission statement might require language refinement against the scope of ICANN’s policy authority, that the current Bylaws might also be reviewed to reflect the key elements of the Affirmation of Commitments and that the Board should have a limited ability to change the key accountability provisions, we support the list of requirements that represent the basis of the recommendation but we do not believe that these changes alone will improve accountability at ICANN Board and staff level. As a matter of fact and as stated earlier, we recommend that – once the accountability enhancements are enforced – both ICANN staff and Board go through regular training programmes to increase their accountability literacy and culture which are of paramount importance if the community likes to have the accountability spirit at the next level. Moreover, we think that introducing a distinction between “ICANN Commitments” and “ICANN Core Values” may just add unnecessary complexity within an already over-structured statutory framework. We would also like to point out that one of the first elements to be clarified is to make sure that any Bylaws do not contain “competing values”, but rather “complementary values”.</p> <p>- CENTR believes that introducing a distinction between “ICANN Commitments” and “ICANN Core Values” may just add unnecessary complexity within an already over-structured statutory framework;</p>	<p><b>Agreement Concerns</b></p> <p><b>Summary / Impression:</b></p> <ul style="list-style-type: none"> <li>- CENTR supports the proposed changes but is unconvinced that these changes are sufficient to ensure accountability of the Board and staff.</li> <li>- CENTR calls for regular training to increase accountability literacy and culture.</li> <li>- CENTR questions the distinction between Commitments and Core Values may add unnecessary complexity.</li> </ul> <p><b>Actions suggested:</b></p> <p>Consider training programs on accountability literacy. Clarify that Bylaws do not contain “competing values”, but rather “complementary values”.</p> <p><b>CCWG response:</b></p> <p>The CCWG appreciates this input. The 2<sup>nd</sup> Draft Proposal maintains the distinction between Commitments and Core Values, and distinguishes the way in which these principles may be balanced. Commitments reflect ICANN’s fundamental compact with the global Internet community and are intended to apply consistently and comprehensively to ICANN’s activities. In any situation where one Core Value must be balanced against another, potentially competing Core Value, the balancing must further an important public interest goal within ICANN’s Mission that is</p>

			identified through the bottom-up, multistakeholder process.
1 2 8	<a href="#">i2Coalition</a>	<p>The i2Coalition strongly supports the inclusion of language limiting ICANN's activities to those that further its mission, as well as changes to ICANN's Bylaws requiring ICANN to carry out its activities in accordance with applicable law and international law and conventions through an open and transparent process. In particular, it supports clarifying ICANN's Mission Statement to state explicitly that the scope of ICANN's authority does not include the regulation of services that use the domain name system (DNS) or the regulation of content these services carry or provide. However, the i2Coalition has concerns regarding the inclusion of new criteria associated with balancing commitments and core values. The new language suggests that "strict scrutiny" and "intermediate scrutiny" concepts imported from U.S. constitutional law should guide ICANN in making decisions that implicate multiple commitments or core values. But under U.S. law, these tests are typically applied when one fundamental value (e.g., equal protection or freedom of speech) is infringed. They are not designed to provide guidance when balancing multiple compelling interests that lead to different conclusions. For that reason, the tests often favor governmental inaction. But in the face of competing core values, the Internet ecosystem depends on ICANN continuing to make decisions, rather than refrain from acting. The strict scrutiny and intermediate scrutiny tests do not provide ICANN with any guidance for how to address this conundrum. For these reasons, we believe that the existing language regarding balancing and reconciliation of competing core values ought to be retained. The i2Coalition supports the clarification to the Core Values that any decision to defer to input from public authorities must be consistent with ICANN's Commitments and Core Values. This is important to the goal of accountability; public authorities would have the ability to provide input into ICANN decisions, while ensuring that all ICANN actions are compliant with its Bylaws.</p>	<p><b>Agreement Concerns</b></p> <p>The CCWG appreciates this input. A number of commenters were uncomfortable with the proposed balancing test, on the grounds that it might tend to favor inaction. We agreed with this input and modified the proposed balancing test language accordingly. Specifically, we have eliminated the test for balancing Commitments, on the grounds that these reflect ICANN's fundamental compact with the community and are intended to apply consistently and comprehensively to ICANN's activities. We retained the simpler proposed balancing test for competing Core Values.</p>
1 2 9	<a href="#">NIRA</a>	- NIRA agrees with recommended changes and requirements.	<p><b>Agreement</b></p> <p><b>Summary / Impression:</b> Agrees with recommended changes.</p>

			<p><b>Actions suggested:</b> None</p> <p><b>CCWG response:</b> The CCWG thanks you for your comments.</p>
1 3 0	<a href="#">ALAC</a>	<p>Para 50, Section 3.1.1.a: The ALAC believes that in accordance with the Affirmation of Commitments, ICANN has a responsibility to develop policies that will foster user trust in the DNS. The ALAC understands that ccTLDs are outside of ICANN scope in regards to this.</p> <ul style="list-style-type: none"> <li>- believes that fostering trust in the DNS must be incorporated into the ICANN Bylaws. This can be accomplished by adding the phrase "and to foster user trust in the DNS" to Paragraph 56 as well as including it in Commitments. The reference in paragraph 107 is not sufficient since that is in relation solely to competition.</li> </ul> <p>Para 65: The ALAC believes that it is appropriate to define the reference to Private Sector leadership as explicitly meaning NOT led by the governments. Furthermore, although it is led by the private sector (as defined here), governments do have a role to play in the ICANN Multistakeholder model.</p> <ul style="list-style-type: none"> <li>- recommends caution on classing any Bylaws related to reviews as fundamental without a provision for altering the timing, with widespread community agreement, but without requiring a formal Bylaw change.</li> </ul>	<p><b>Agreement – New Idea</b></p> <p><b>Summary / Impression:</b></p> <ul style="list-style-type: none"> <li>- ALAC proposes new language to "foster user trust in the DNS" in paragraph 56 and the Commitments</li> <li>- ALAC believes that paragraph 107 is inadequate to reflect the relevant provisions of the AOC</li> <li>- ALAC proposes that "private sector leadership" in paragraph 65 should be defined as meaning "not lead by governments"</li> <li>- ALAC urges caution on making reviews-related bylaws fundamental bylaws.</li> </ul> <p><b>Actions suggested:</b> Consider new language, define "private sector leadership" in paragraph 65.</p> <p><b>CCWG response:</b> The CCWG appreciates this input. The language from the AoC regarding, among other things, user trust, will be included in the Review section as follows to: "In any expansion of the top-level domain space will address issues of competition, consumer protection, security, stability and resiliency, malicious abuse issues, sovereignty concerns, and rights protection."</p>
1 3 1	<a href="#">LAB</a>	<ul style="list-style-type: none"> <li>- Para 56 the syntax is overly complex and ambiguous (does the "which" refer to "policy", "process" or "systems"?). I suggest the syntax be simplified. I suggest too that "open, transparent" be inserted directly before "bottom-up".</li> <li>- Para 76, the words "in a way that is substantially related to that</li> </ul>	<p><b>Agreement – New Idea</b></p> <p><b>Summary / Impression:</b> Lee Bygrave generally supports the proposed revisions and makes several suggestions to clarify and enhance the wording.</p>

		<p>interest" seem superfluous and could thus be deleted.</p> <ul style="list-style-type: none"> <li>- 86, I suggest that the rather lengthy phrase "relevant principles of international law and applicable law and international conventions" be replaced by simply "international and domestic law" (assuming that "applicable law" is intended to encompass national/domestic law).</li> <li>- Para 87, I suggest deleting "internet" from the phrase "internet DNS".</li> <li>- Para 111, I suggest the following wording: "Striving to ensure that the interests of one or more interest groups are not advanced at the undue expense of others".</li> </ul>	<p><b>Actions suggested:</b> Consider language revisions.</p> <p><b>CCWG response:</b> The CCWG appreciates this input. The 2<sup>nd</sup> Draft Report incorporates these suggestions.</p>
1 3 2	<a href="#">RSSAC</a>	<p>We note that the proposed bylaws revision (p. 20) includes a placeholder for language relating to the root server system in an updated description of ICANN's mission. We expect to contribute proposed language on this point as the process of revising the bylaws proceeds.</p>	<p><b>Summary / Impression:</b> The RSSAC will provide language for the placeholder description of ICANN's mission with respect to the DNS root servers.</p> <p><b>Actions suggested:</b> None</p> <p><b>CCWG response:</b> The CCWG appreciates this input and looks forward to receiving proposed language from the RSSAC.</p>
1 3 3	<a href="#">RIR</a>	<ul style="list-style-type: none"> <li>- A clear definition of the scope of ICANN's Mission, Commitments and Core Values could contribute positively to the enhancement of ICANN's accountability.</li> <li>- In particular the RIR community fully supports the description of ICANN's mission with regard to the coordination of policy development for Internet number resources page 20, paragraph 57): "In this role, with respect to IP addresses and AS numbers, ICANN's Mission is described in the ASO MoU between ICANN and RIRs."</li> <li>- With regards to ICANN's core values in the Bylaws and in particular page 25, paragraph 89, the RIR community notes that the term "private sector led multistakeholder" and similar terms) have been used by the NTIA in describing ICANN, but the RIRs describe their policy development processes using terms such as "inclusive, open, transparent and bottom-up". These different descriptions are compatible, provided it is understood that "private sector led" does not exclude government participation.</li> </ul>	<p><b>Agreement</b></p> <p><b>Summary / Impression:</b> The RIR community supports the changes to ICANN's Mission Statement, Commitments, and Core Values. It notes that the phrase "private sector led multistakeholder," which has been used by NTIA, is compatible with the RIR's approach so long as it does not exclude government participation.</p> <p><b>Actions suggested:</b> None</p> <p><b>CCWG response:</b> The CCWG appreciates this input.</p>
1	<a href="#">DotMusic</a>	<p>DotMusic agrees with the recommended changes to ICANN's Mission,</p>	<p><b>Agreement Concerns</b></p>

<p>3 4</p>		<p>Commitments, and Core Values. These changes will help create a culture of accountability within ICANN. However, DotMusic is concerned that a Bylaws statement that "ICANN shall not engage in or use its powers to attempt the regulation of services that use the Internet's unique identifiers or the content that they carry or provide" can be interpreted too broadly. DotMusic recommends that this broad proposed language be reviewed and refined to reduce the risk of any interpretation that would constrain ICANN's ability to enforce any contractual obligation.</p>	<p><b>Summary / Impression:</b> DotMusic generally supports the proposed revisions to the ICANN Mission Statement, Commitments, and Core Values, but is concerned that the prohibition on regulation of services or content could be read to constrain ICANN's authority to enter into and enforce contract prohibitions on abusive use of the domain name system.</p> <p><b>Actions suggested:</b> Consider refining some language.</p> <p><b>CCWG response:</b> WP2 discussed the concerns expressed regarding contract issues, and the suggestion to modify this language. The group felt that on balance that clarification was not necessary. The limit on ICANN's ability to regulate services and content does not preclude ICANN from entering into contracts and enforcing its contracts in furtherance of its Mission. For example, a number of applicants for new gTLDs made voluntary commitments to better serve registrants and end users and to address concerns about competition, consumer protection, right protection, etc. Nothing about enforcing those voluntary commitments would be inconsistent with ICANN's Mission.</p>
<p>1 3 5</p>	<p><a href="#">Siva</a></p>	<p>The proposed changes would indeed enhance ICANN's Accountability. However, ICANN's adherence to the Accountability framework would depend on the commitment of the ICANN Board and its Members, Constituencies and its participants, Executive and Staff to the notions of Accountability, which ought to exceed the legal commitments of the organization and its constituents. Accountability standards would have to become inherent to the organization. This needs to be achieved by an ongoing process which could begin with an elaborate exercise in</p>	<p><b>Agreement – New Idea</b></p> <p><b>Summary / Impression:</b> Siva generally supports the proposed changes but believes that true accountability requires a cultural change that goes beyond legal commitments.</p> <p><b>Actions suggested:</b> Consider an ongoing process.</p>

		work stream 2	<b>CCWG response:</b> The CCWG appreciates this input and agrees that accountability is an ongoing process.
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