

Fundamental Rights – Working Draft Dated 30 March 2015

| Current Bylaws   | Proposed - Working Draft   | NOTES   |
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| <p><b>Section 2. CORE VALUES.</b> In performing its mission, the following core values should guide the decisions and actions of ICANN:</p> <p>1. Preserving and enhancing the operational stability, reliability, security, and global interoperability of the Internet.</p> <p>2. Respecting the creativity, innovation, and flow of information made possible by the Internet by limiting ICANN's activities to those matters within ICANN's mission requiring or significantly benefiting from global coordination.</p> <p>7. Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.</p> <p>8. Making decisions by applying documented policies neutrally and objectively, with integrity and fairness.</p> <p>10. Remaining accountable to the Internet community through mechanisms that enhance ICANN's effectiveness.</p> | <p><b>Fundamental Rights.</b> In performing its mission, <del>the following core values should guide the decisions and actions of ICANN:</del> ICANN must operate for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and applicable law and international conventions and through open and transparent processes that enable competition and open entry in Internet-related markets, and the Fundamental Rights set forth below. Specifically, ICANN's action must:</p> <p>1. Preserve<del>ing</del> and enhance<del>ing</del> the operational stability, reliability, security, global interoperability, <del>resilience, and openness</del> of the DNS and the global Internet;</p> <p>2. Respecting<del>ing</del> the creativity, innovation, and flow of information made possible by the Internet by limiting ICANN's activities to matters that are within ICANN's mission and require<del>ing</del> or significantly benefit from global coordination;</p> <p>3. Employ<del>ing</del> open, transparent and bottom-up, multistakeholder policy development <del>mechanisms processes</del> that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.</p> <p>4. Make<del>ing</del> decisions by applying documented policies consistently, neutrally and objectively, and fairly, <del>with integrity and fairness without singling out any particular party for disparate discriminatory treatment unless justified by substantial and reasonable cause, such as the promotion of effective competition;</del></p> <p>5. Remain<del>ing</del> accountable to the global Internet Community through mechanisms defined in the Bylaws that enhance ICANN's effectiveness.</p> | <p>This additional language is derived from ICANN's current Articles of Incorporation.</p> <p><b>Note:</b> These provisions also reflect the following AoC commitments:</p> <ul style="list-style-type: none"> <li>• Section 3.(a), (b), and (d)</li> <li>• Section 9.1</li> <li>• Section 9.2</li> </ul> <p><b>Note: The changes in Core Value #8 reflect and incorporate Current Bylaws Section 3. NON-DISCRIMINATORY TREATMENT,</b> which provides that "ICANN shall not apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment unless justified by substantial and reasonable cause, such as the promotion of effective competition." The balancing language is not necessary given the proposed test for reconciling competing Fundamental Rights and Core Values.</p> <p>The OED defines "disparate" as "Essentially different in kind; not able to be compared." "Discriminatory" is defined as "making or showing an unfair or prejudicial distinction between different categories of people or things." This change was suggested by one of the CCWG's independent experts.</p> |