

FOR BREAK-OUT DISCUSSION 21 OCTOBER 2015

PRINCIPLES – OPEN ISSUES

Comparison of Proposed Mission, Commitments & Core Values to Existing Bylaws

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CURRENT ICANN BYLAWS CCWG 2nd DRAFT PROPOSAL
Section 1. MISSION
The mission 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:
<ol style="list-style-type: none">1. Coordinates the allocation and assignment of the three sets of unique identifiers for the Internet, which are<ol style="list-style-type: none">a. Domain names (forming a system referred to as "DNS");b. Internet protocol ("IP") addresses and autonomous system ("AS") numbers; andc. Protocol port and parameter numbers.<p>*NOTE – the IETF/IAB have re-raised (informally) concerns regarding this description, referencing its original comments on “support” rather than “coordination” role.</p>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.
<p><u>In this role, with respect to domain names, ICANN's Mission is to coordinate the development and implementation of policies:</u></p> <ul style="list-style-type: none">- <u>For which uniform or coordinated resolution is reasonably necessary to facilitate the openness, interoperability, resilience, security and/or stability of the DNS; and</u>- <u>That are developed through a bottom-up, consensus-based multistakeholder process and designed to ensure the stable and secure operation of the Internet's unique names systems.</u>
<p><u>In this role, with respect to IP addresses and AS numbers, ICANN's</u></p>

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<p>Mission is described in the ASO MoU between ICANN and RIRs.</p>
<p>In this role, with respect to protocol port and parameter numbers, ICANN's Mission is to [to be provided by the IETF].</p>
<p>In this role, with respect to the DNS root server system, ICANN's Mission is to [to be provided by root server operators].</p>
<p>ICANN shall have no power to act other than in accordance with, and as reasonably appropriate to achieve its Mission.</p> <p>Without in any way limiting the foregoing absolute prohibition, ICANN shall not engage in or use its powers to attempt the regulate services that use the Internet's unique identifiers, or the content that they such services carry or provide.</p> <p>*highlighted language reflects wording changes accepted by CCWG in Dublin. In addition, the last sentence is the subject of ongoing debate regarding to its impact on enforcement of contracted party agreements</p>
<p>Section 2. COMMITMENTS & CORE VALUES</p> <p>In performing its mission, the following core values should guide the decisions and actions of ICANN:In carrying out its Mission, ICANN will act in a manner that complies with and reflects ICANN's Commitments and respects ICANN's Core Values, both described below.</p>
<p>COMMITMENTS</p> <p>1. In performing its Mission, ICANN must operate in a manner consistent with its Bylaws for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and international conventions, and applicable local law and through open and transparent processes that enable competition and open entry in Internet-related markets. Specifically, ICANN's action must:</p>
<p>1. Preserving2. Preserve and enhanceenhance the neutral and judgment free operation of the DNS,* and the operational stability, reliability, security, and global interoperability, resilience, and openness of the DNS and the Internet;</p> <p>*NOTE ALAC concern re highlighted language.</p>

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~~3. Maintain the capacity and ability to coordinate the DNS at the overall level and to work for the maintenance of a single, interoperable Internet;~~

~~2. Respecting~~4. Respect the creativity, innovation, and flow of information made possible by the Internet by limiting ICANN's activities to ~~those matters that are within ICANN's mission requiring ICANN's Mission and require~~ or significantly benefiting from global coordination-;

~~7. Employing~~5. Employ open ~~and,~~ transparent ~~and bottom-up, multistakeholder~~ policy development ~~mechanisms~~ processes, led by the private sector, including business stakeholders, civil society, the technical community, ~~and academia, and~~ end users, while duly taking into account the public policy advice of governments and public authorities that (i) seek input from the public, for whose benefit ICANN shall in all events act, (ii) promote well-informed decisions based on expert advice, and (iii) ensure that those entities most affected can assist in the policy development process-;

**per CCWG work meeting 19 October, adding language from Core Value 7.*

*** add "end users" per comments from ALAC*

NOTE: wording needs work

~~8. Making~~6. Make decisions by applying documented policies consistently, neutrally ~~and,~~ objectively, ~~with integrity and fairness~~ fairly,

(From ARTICLE II, Section 3. NON-DISCRIMINATORY TREATMENT)

~~ICANN shall not apply its standards, policies, procedures, or practices inequitably or single~~

~~without singling out any particular party for disparate~~discriminatory treatment ~~unless justified by substantial and reasonable cause, such as the promotion of effective competition-;~~ (language is actually from Article II, Section 3., Non Discriminatory Treatment, not Core Values)

~~10. Remaining~~7. Remain accountable to the Internet eCommunity through mechanisms defined in the Bylaws that enhance ICANN's

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effectiveness.
<u>Core Values:</u>
<u>1. In performing its Mission, the following core values should also guide the decisions and actions of ICANN:</u>
3. To the extent feasible and appropriate, delegating <u>2. Delegating</u> coordination functions to or recognizing the policy role of other responsible entities that reflect the interests of affected parties- <u>and the roles of both ICANN's internal bodies and external expert bodies;</u>
NOTE ALAC objection to deletion of highlighted language
4.3 Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making- <u>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;</u>
5. Where feasible and appropriate, depending <u>4. Depending</u> on market mechanisms to promote and sustain a <u>healthy</u> competitive environment- <u>in the DNS market.</u>
NOTE ALAC objection to deletion of highlighted language
6.5 Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest- <u>as identified through the bottom-up, multistakeholder policy development process.</u>
9. Acting <u>6. Operate with</u> efficiency and excellence, in a fiscally <u>responsible and accountable manner and at</u> a speed that is responsive to the needs of the <u>global</u> Internet while, as part of the decision making process, obtaining informed input from those entities most affected- <u>community.</u>
11.7 While remaining rooted in the private sector, <u>including business stakeholders, civil society, the technical community, and academia, and end users,</u> recognizing that governments and public authorities are responsible for public policy and duly taking into account <u>governments' or public authorities'</u>

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~~recommendations; the public policy advice of governments and public authorities.~~

NOTE add "end users" per ALAC and other comments

NOTE add "end users" (highlighted language) per ALAC and other comments

~~8. Striving to achieve a reasonable balance between the interests of different stakeholders.~~

~~These core values~~Commitments and Core Values are ~~deliberately expressed in very general terms, so that they may provide useful and relevant guidance intended to apply~~ in the broadest possible range of circumstances.

~~Because they are not narrowly prescriptive,~~The Commitments reflect ICANN's fundamental compact with ~~the global Internet community and are intended to apply consistently and comprehensively to ICANN's activities.~~

~~The specific way in which they~~Core Values apply, individually and collectively, to each new situation ~~will necessarily~~may depend on many factors that cannot be fully anticipated or enumerated; ~~and because they are statements of principle rather than practice, situations will inevitably.~~ Situations may arise in which perfect fidelity to all ~~eleven core values~~Core Values simultaneously is not possible.

~~Any ICANN body making a recommendation or decision shall exercise its judgment to determine which core values are most relevant and how they apply to the specific circumstances of the case at hand, and to determine, if necessary, an appropriate and defensible balance among competing values.~~

~~In any situation where one Core Value must be reconciled with another, potentially competing Core Value, the balancing must further an important public interest goal within ICANN's Mission that is identified through the bottom-up, multistakeholder process.~~