

Executive Summary (para. 21)

The CCWG Accountability's assessment is that its recommendation published for public comment are consistent with the CWG expectations regarding budget, community empowerment, review and redress mechanisms, as well as appeals mechanisms (with regards to ccTLD related issues). The group is grateful to the CWG for the constructive collaboration that was set up across the groups.

Note to CWG: please consider if this reference to ccTLD is unduly prominent.

Section 1.4 (para. 42)

In addition, the CWG ~~co-chairs detailed,~~ has advised the CCWG, including in a correspondence ~~from the CWG co-chairs~~ dated 15 April 2015, the expectations from their group with regards to CCWG accountability WS1 recommendations. These expectations are:

- **ICANN budget:** The CWG supports the ability for the community to ~~"veto"~~ approve a budget, including on IANA functions' costs. This expectation is dealt with in section 2.6.2.
- **Community empowerment mechanisms:** The CWG will be relying on the community empowerment and accountability mechanisms that the CCWG is currently considering and developing being in place at the time of the stewardship transition. In particular, mechanisms such as: the ability to ~~review~~ recall the ICANN Board, the ability to veto ICANN Board decisions relating to periodic or ~~ad-hoc~~ special reviews of the IANA function ~~undertake~~ undertaken through the IANA function review ~~function (PRF or possibly IRF); (IFR)~~, the ability to approve ~~or reject board decisions on PRF~~ changes to Fundamental Bylaws as well as the related creation of a stakeholder community / member group in order ensure the ability to ~~trigger~~ exercise these kinds of ~~abilities~~ rights. This expectation is dealt with in section 2.6.
- **Creation of a customer standing committee:** The CWG requires that the creation of a customer standing committee (CSC) be contemplated by the ICANN bylaws. Additionally, if not currently within their mandates, the ccNSO and/or GNSO should be empowered to address matters escalated by the CSC.
- **Review and redress mechanisms:** The CWG would like to have the assurance that an IANA Periodic Review (or related ~~ad-hoc~~ special review) could be incorporated as part of the AoC mandated reviews integration into ICANN's Bylaws as a Fundamental Bylaw. This expectation is dealt with in section 2.7.2. The CWG will also require a mechanism for a separation review once certain remedies are exhausted which would trigger a separation of Post-Transition IANA from ICANN.
- **Appeal mechanisms (especially with regard to ccTLD related issues):** The CWG recommends that the CCWG should be mindful of the recommendations of the CWG in relation to an appeals mechanism for ccTLDs in delegation and re-delegation. The CWG has conducted a survey among the ccTLDs as part of the work of our Design Team B, and the results led to a recommendation which notes that ccTLDs may decide to develop their own appeals mechanism regarding re/delegation at a later date (post-transition). As such, any appeal mechanism developed by the CCWG should not cover ccTLD delegation / re-delegation issues as these are expected to be developed by the ccTLD

Note to CWG - please consider whether the description of the ccTLD issue is unduly prominent and whether it should be shortened.

community through the appropriate processes. However, the CWG does want to emphasize the importance and need for an appeal mechanism to cover any other issues that may involve IANA and notes that this is option is expected to be specifically called out as one of the possible escalation mechanisms[1] in the draft transition proposal. This expectation is dealt with in section 3.

[□ Fundamental bylaws: To address the various matters above, the CWG requires these mechanisms to be included as Fundamental Bylaws.](#)

Section 2.3.4 (para. 117)

The general approach should be to have only critical matters defined in the Fundamental Bylaws to avoid introducing unnecessary rigidity into ICANN's structures. It would harm, not help, accountability to make changes to bylaws in general face the same thresholds as are proposed for Fundamental Bylaws. In the CCWG's view, "critical matters" are those that define the corporation's scope and mission, and the core accountability tools the community requires. Accordingly, the following would be Fundamental Bylaws in the first instance:

1. The Mission / Commitments / Core Values;
2. The Independent Review process;
3. The manner in which Fundamental Bylaws can be amended;
4. The powers set out in section 2.6 of this report;
5. Reviews that are part of the CWG's work – the IANA Functions Review and the Separation Review; [as well as the creation of a customer standing committee \(CSC\).](#)

~~6.~~The CCWG is interested in views from the community about whether there are other parts of the Bylaws that should be protected by making them Fundamental Bylaws.

Section 2.6.2 (para 175)

Time would be included in planning and budgeting processes for the community to consider adopted plans and decide whether to reject (timeframe to be determined). These processes would also need to set out the required level of detail for such documents. [The CWG has expressed a requirement for the budget to be transparent with respect to the IANA function's costs and clear itemization of such costs.](#)

Section 3, Stress test category V: Failure of Accountability to External Stakeholders (para. 663)

STRESS TEST	EXISTING ACCOUNTABILITY MEASURES	PROPOSED ACCOUNTABILITY MEASURES
25. ICANN delegates or subcontracts its obligations under a future IANA agreement to a third party. Would also include ICANN merging with or allowing itself to be acquired by another organization.	The present IANA contract (link) at C.2.1 does not allow ICANN to sub-contract or outsource its responsibilities to a 3rd party without NTIA's consent. NTIA could exert its control over ICANN's decision as	The CWG planning the IANA stewardship transition could require community consent before ICANN could sub-contract or outsource its IANA responsibilities to a 3rd party. The CCWG is proposing to

[Note to CWG: we believe this is implicit in the CWG proposal, but it was not articulated in this way in the CWG proposal.](#)

<p>Consequence: Responsibility for fulfilling the IANA functions could go to a third party that was subject to national laws that interfered with its ability to execute IANA functions.</p>	<p>long as it held the IANA contract. But not after NTIA relinquishes the IANA contract.</p> <p>Nor would NTIA's required principles for transition be relevant after transition occurred.</p>	<p>empower the community to challenge a board decision, referring it to an Independent Review Panel (IRP) with the power to issue a binding decision. If ICANN failed to comply with its bylaws, the IRP mechanism enables a reversal of that decision.</p> <p>Note: This would not cover re-assignment of the Root Zone Maintainer role, which NTIA is addressing in a parallel process.</p>
<p>Conclusions: a) This threat is directly related to the transition of IANA stewardship</p>	<p>b) Existing measures would not be adequate after NTIA relinquishes the IANA contract.</p>	<p>c) Proposed measure are adequate to allow community to challenge ICANN decisions in this scenario.</p>

Summary report:
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Modified DMS: iw://SIDLEYDMS/ACTIVE/207371564/3

Changes:

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Delete	14
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	40