



Enhancing ICANN Accountability

CCWG-Accountability

Problem Statement

- During discussions around the IANA functions stewardship transition the community raised the broader topic of the impact of the change on ICANN's accountability
- Concerns raised indicated that the existing ICANN accountability mechanisms do not yet meet stakeholder expectations.

Scope

- Ensure that ICANN enhances its existing accountability in the absence of its historical contractual relationship with the U.S. Government
- Investigate accountability mechanisms regarding all of the functions provided by ICANN
- Deliver proposals that would enhance ICANN's accountability towards all stakeholders



Work Streams

The group's work is divided into two work streams:

- Work Stream 1: focused on identifying mechanisms that must be in place or committed to within the timeframe of the IANA Stewardship Transition
- Work Stream 2: focused on addressing accountability topics for which a timeline for developing solutions and full implementation may extend beyond the IANA Stewardship Transition

CCWG-Accountability Statistics

There are currently **161 people** in the Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability):



25 Members

Chartering organization-appointed members



136 Participants

Actively contribute to mailing list conversations and meetings



38 Mailing List Observers

Read-only access to mailing list

Regional Representation

- ⊙ 39 North America
- ⊙ 36 Europe
- ⊙ 32 Asia/Asia Pacific
- ⊙ 27 (not specified)
- ⊙ 18 Africa
- ⊙ 9 Latin America

Stakeholder Group Representation:

- ⊙ 61 (no affiliation)
- ⊙ 40 GNSO
- ⊙ 25 GAC
- ⊙ 20 ALAC
- ⊙ 11 ccNSO/ccTLD
- ⊙ 4 ASO

Definitions

Purpose of accountability

- Comply with its own rules and processes (“due process”)
- Comply with applicable legislation, in jurisdictions where it operates
- Achieve certain levels of performance as well as security
- Ensure decisions are for benefit of the public, not just for a particular set of stakeholders

Definitions

What is accountability?

- **Transparency:** Being open and visible
- **Consultation:** Explain intended actions to stakeholders and adjust plans in light of information
- **Checks & Balances:** Mechanisms to address concerns from interested parties in discussion and decision process and to ensure decision is made in interest of all
- **Review:** Mechanisms to assess performance and relevance of processes or structures, and provide non-binding recommendations for improvement
- **Redress:** Mechanisms that focus on assessing compliance or relevance of a certain decisions and has power to confirm, cancel or amend decision
- **Independence:**
 - ✧ **Independence of persons participating in decision process:** assessed along lines of material relationship, transaction or professional aspiration.
 - ✧ **Independence of a specific accountability mechanism:** examine similarity, appointment, material relationships, conflict of interests

To whom should ICANN be accountable?

CCWG-Accountability is expected to deliver proposals that would enhance ICANN's accountability towards **all stakeholders**; stakeholders is considered in its wider acceptance

- **Affected parties:** Individuals/parties upon which decisions made by ICANN have an impact
 - **Directly-affected parties:** affected through contracts, individual decisions or policies i.e. gTLD registries, ICANN-accredited registrars, gTLD registrants, ccTLD registrants, governments, IP right owners, free speech and civil liberties advocates, RIRs and RIR communities, ISPs, registry service providers, domain name resellers, ccTLD managers, IDN ccTLD managers, IETF, dispute resolution providers, ICANN contractors.
 - **Indirectly-affected parties:** industries or sector of economy, ccTLD registrars, root zone maintainer, DNS name server operators.

To whom should ICANN be accountable?

- **Parties that affect ICANN:** Influence ICANN's decisions or actions, either directly or indirectly, or shape the environment in which ICANN operates
 - **Parties affecting ICANN directly:** individual/parties that participate in ICANN's decision processes i.e. RySG, RrSG, CSG, BC, IPC, ISPCP, NCSG, NCUC, NPOC, GAC, SSAC, users (through ALAC), RIR communities (through ASO), ccTLD managers (ccNSO members), ccTLD regional organizations, NomCom nominees, RSSAC, NTIA (through AoC), ICANN Board, ICANN staff and contractors, community, IETF, auditors (working groups, review teams)
 - **Parties affecting ICANN indirectly:** parties affecting ICANN or shaping its environment indirectly i.e. US Congress, governments (not GAC members), ccTLDs that are not ccNSO members, other entities working on communication policy (e.g. IGF, UN organization, Internet society), potential domain name registrants, future users.

Contingencies

Work is structured to ensure that stress tests can be designed, carried out and its results being analyzed timely before the transition.

25 contingencies consolidated into 5 categories of stress tests:

- **Financial crisis or insolvency:** ICANN becomes fiscally insolvent, and lacks resources to adequately meet obligations
- **Failure to meet operational obligations:** ICANN fails to process change or delegation requests to the IANA Root Zones, or executes a change of delegation over objections of stakeholders
- **Legal/legislative action:** ICANN is subject of litigation under existing or future policies, legislation or regulation. ICANN attempts to delegate a new TLD or redelegate a non compliant existing TLD
- **Failure of accountability:** Action by one or more Board members, CEO, staff are contrary to mission or bylaws. ICANN is captured by one stakeholder segment
- **Failure of accountability to external stakeholders:** ICANN modifies its structure to avoid obligation to external stakeholders. ICANN delegates, subcontracts, or abdicates obligations to third party. ICANN merges or is acquired by unaccountable third party

Work Stream 1 - Requirements

CCWG-Accountability reached agreement on Work Stream 1 requirements e.g. approval of key decisions, review and redress, etc. that will guide the next phase of the group's work

Two tracks were identified and working parties formed to help advance work:

1. Enabling community empowerment over Board decisions with limited, strictly enumerated, last resort powers

➤ **WP 1 – Community Empowerment**

2. Enhancing review and redress processes

➤ **WP 2 – Review & Redress**

WP 1 – Community Empowerment

1. Enabling community empowerment over Board decisions with limited, strictly enumerated, last resort powers

➤ WP 1 – Community Empowerment (examples being considered)

- approval of the Strategic Plan, Business/Operating Plan and Budget
- approval of proposed changes to the bylaws
- establishing that a particular action was contrary to the Bylaws and refer it back to the ICANN Board for reconsideration
- establishing and reaching consensus on community opposition to a Board or Staff decision and referring it to the ICANN Board for reconsideration
- invalidating a decision of the ICANN Board
- removing one or more members of the ICANN Board (recall mechanisms)
- ensuring ICANN's activity does not stray beyond its narrow mission

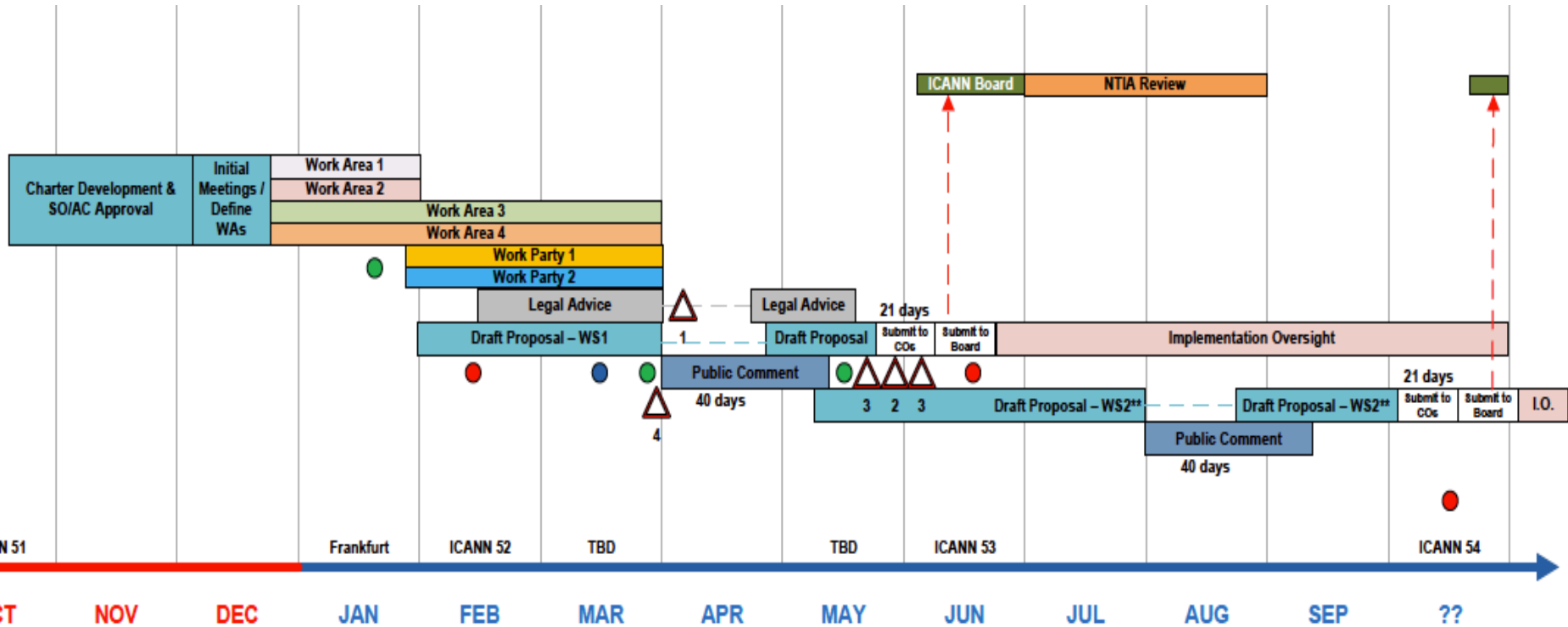
WP 2 – Review & Redress

2. Enhancing review and redress processes

➤ WP 2 – Review & Redress

- review of current accountability mechanisms, considering design of binding independent review
- incorporation of the Affirmation of Commitments (AoC) into the ICANN Bylaws, including consideration of which review processes should be added.

Timeline



Follow our Activities!

For more information on scope and membership, to view CCWG-Accountability drafts, activities, to read/listen to meeting archives

Enhancing ICANN Accountability Wiki

<https://community.icann.org/category/accountability>