

Köln, 03.06.2015

CCWG Accountability

eco Comment on Draft Report

Introduction:

eco Verband der Deutschen Internetindustrie e.V. is an association with more than 800 members from more than 60 countries. The membership includes some 150 companies working in the domain industry, including registries, registrars and resellers. eco is following the various activities relating to the IANA Stewardship Transition closely and has carried out multiple events to stimulate a dialogue among stakeholders on the very subject at the national level as well as actively participated in various conferences at the international level.

The consultation in Germany has led to the adoption of a German position paper, which can be found here <https://community.icann.org/pages/viewpage.action?pageId=52894734>.

eco would like to commend the CCWG on its hard work and the high quality and thoughtful work results it has produced so far. eco also recognizes the outreach efforts by the CCWG, including webinars and the translation of the report into multiple languages as well as ICANN's outreach efforts on the IANA Stewardship Transition at the global level. As the draft report does not represent consensus positions, these outreach efforts need to be continued and intensified to ensure the process is as inclusive as possible.

Questions 2 and 3:

Making some bylaws more robust than others, i.e. the idea of creating Fundamental Bylaws, is a good one. The described process seems to strike an appropriate balance between making it harder to change these bylaws and at the same time allowing for changes whenever substantial

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parts of the community deem this to be required. Some flexibility needs to be retained for an organization working in a rapidly changing environment.

There have been concerns raised by community members that a future ICANN Board could reverse changes made to ICANN bylaws to improve ICANN's accountability. Therefore, Fundamental Bylaws, changes to which require approval, are an appropriate measure to enhance ICANN's accountability.

The list of items qualifying for Fundamental Bylaws should be kept as short as possible and only encompass those clauses that are needed to protect the accountability architecture as such. Based on the suggestions made in the draft report, the list of items appears to be appropriate.

Questions 4 and 5:

The proposed improvements to the IRP and reconsideration process would definitely enhance ICANN's accountability. However, the CCWG does not seem to have reached out to experts on the subject matter. Therefore, it might be advisable to reach out to experts in the field and rely on their suggestions when it comes to details of the revised IRP. As long as the basic principles, such as accessibility, independence, binding nature of decisions and decisions on the merits of the case (and not only on process) are preserved, internationally recognized standards or best practice could and should be followed when it comes to fleshing out the details.

Questions 8 and 9:

The proposed community powers are an essential part of a proposal to replace the historic relationship between ICANN/IANA and the USG.

The CCWG has worked on requirements that need to be fulfilled to provide for an enhanced accountability and has established a set of stress tests to verify the degree to which a proposed implementation fulfills the established requirements. Based on the legal advice

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received, the membership model appears to be the best proposition to operationalize the requirements established by the CCWG. eco fully supports the working method used by the CCWG based on requirements. Thus, the most appropriate implementation model to translate established requirements into working structures and processes should be used. This includes that the established powers and mechanisms are sufficiently robust and cannot be ignored or easily be overturned. As a matter of last resort, enforcement of community powers must be possible.

Question 10:

The CCWG has suggested a relative influence of the various groups based on an analysis of their composition and based on assumptions that a certain number of votes could facilitate geographic diversity. These suggestions are supported. However, the relative powers might need to be revisited based on feedback received from the groups in question. As long as the general idea of the suggested model is preserved, there should be flexibility in determining the final relative influence.

Question 15:

The community power to recall the entire board is the most important power to ensure that the community can step in in cases where the board is not willing to act in accordance with ICANN's bylaws. Hence, this very community power should be made the most robust one, even in case the CCWG or the community wishes to compromise on other community powers and the associated escalation paths described in the report.

For the remaining questions, we do agree with the suggestions made in the report.

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