

# Appendix C: Legal Counsel

---

## Introduction

The CCWG-Accountability engaged two law firms to advise and counsel on their work. At the time of engagement, the CCWG-Accountability created a Legal Subteam to coordinate the work of the firms (the methodology for this group is further described below).

However, following the release of the Initial Draft Report in May 2015, the Legal Subteam was disbanded and the relationship with the law firms was redesigned: the CCWG-Accountability Chairs, not the Legal Subteam, would have direct contact with the firms and certify requests from the group. This new method of engagement allows for more direct consultation between the leadership and the law firms while at the same time allowing for better staff-supported costs tracking.

The requests and responses are tracked on the public Wiki space here:

<https://community.icann.org/x/OiQnAw>.

## Scope of work

**Adler & Colvin** will be the primary source of advice on corporate governance law and California not-for-profit law.

**Sidley & Austin** will be addressing international law and jurisdiction issues and any additional topic, as deemed appropriate.

## Rules of Engagement

### Law firms' coordination

Sidley & Austin will be the coordinating firm. Both firms are expected to work on the different issues assigned to them but Sidley Austin will coordinate how the complementary and collaborative work will be developed by the firms. It is of the essence for the success of the group to avoid having duplicate work that may impact in duplicate billable hours.

Private coordination meetings between lawyers would be acceptable and desirable. Information should flow freely between law firms.

### Legal advice

While recognizing that Sidley Austin will be coordinating the work of both law firms with the aim of having a harmonized voice, law firms should state any deferring views they may have on any particular issue where this difference happens. Furthermore, should

this difference in views happen, each law firm will be required to provide the rationale for its deferring view.

During face-to-face meetings/calls, high-level legal advice should come in real time in reply to anyone raising a question within the Charter's scope.

Lawyers' involvement with Work Parties of the CCWG-Accountability will be key for next steps as it is them that are building the proposals that will be subject to public comment. Therefore, the Legal Subteam and the law firms should be able to provide these Work Parties with the tools they need to build feasible and legally viable proposals.

It is of the essence that as a next step the law firms analyze the different templates of powers and mechanisms attached herein in order to provide advice on whether those powers and mechanisms are legally viable in the first place and if not, which would be the alternatives. On a second phase, the law firms will be asked to advice on how these mechanisms and powers may be implemented in a holistic view of the accountability enhancement process.

## Legal Subteam Methodology

When the Legal Subteam was active, the following methodology and working methods applied:

### Legal Subteam and law firms' coordination

Law firms report to the CCWG-Accountability and receive instructions from the Legal Executive Subteam only. Legal Executive Subteam Members include: León Sánchez (lead); Athina Fragkouli; Robin Gross; David McAuley; Sabine Meyer; Edward Morris; Greg Shatan and Samantha Eisner (support);

Should there be the need for a call between the available members of the Executive Legal Subteam and any of the law firms in order to address urgent matters without the ability to setup a public call, it will always be required to provide proper debrief to the open list in a timely fashion. This method will be exceptional.

A single mailing list will be used. Legal Subteam members who are not listed in the Legal Executive Subteam have viewing rights to help streamline communications. Posting privileges should carry request privileges.

The mailing list remains open to any observers.

Activities and requests will be documented on the dedicated wiki page - <https://community.icann.org/display/acctcrosscomm/Legal+SubTeam>.

### Mailing list

All formal requests, including follow-up clarifications, are made in writing and communicated through the public mailing list [ccwg-accountability5@icann.org](mailto:ccwg-accountability5@icann.org) – public archives available at <http://mm.icann.org/pipermail/ccwg-accountability5/>.

## Conference calls

All weekly calls are to be recorded, transcribed and archived in the public wiki space here: <https://community.icann.org/x/kw4nAw>.

Legal Subteam and law firms coordination call will be held on Wednesdays: 14:00-15:00 UTC Legal Subteam only - 15:00-16:00 UTC Legal Subteam and lawyers.

Calls are open to anyone.

## Requests for advice

No individual outside the Executive Legal Subteam should send requests to law firms.

Law firms are to alert the Legal Executive Subteam of any requests made by individuals outside the Legal Executive Subteam.

Only tasks assigned by memorandum will be subject for lawyers work. It is important that both law firms continue to follow the calls of the CCWG-Accountability and the discussion in the mailing lists as there might be important topics or questions raised over the different discussions that might provide context to the assignments made by the Legal Subteam.

Questions will continue to be gathered and compiled in a single document by the Legal Subteam to keep track of the different concerns and questions raised within the larger group and they will be triaged in order to then be assigned formally to the lawyers.

On each assignment, the Legal Subteam will do its best effort to provide as much context as possible to better guide the lawyers on the needs that the particular assignment is trying to address.

Requests for legal advice should be numbered consecutively for reference purposes.

All requests are archived in the public wiki space here: <https://community.icann.org/x/4gknAw>.