

SO/AC Accountability

During the first public comment period on the CCWG draft document, several comments addressed SO/AC accountability and how the proposed mechanisms, so far, centered their impact only on ICANN's Board of Directors.

As new institutional arrangements increase community powers in ICANN, legitimate concerns arise regarding the accountability of the community (organized as SOs and ACs) in enacting those power. In other words, "Who watches the watchers?".

In addressing these concerns, the CCWG established WP3. On the matter of SO/AC accountability, WP3 divided its work into the following steps:

- Identify the existing accountability mechanisms in place for SO/ACs.
- Review existing mechanisms in order to assess whether and how they address the concerns expressed by the community during the first public comment period.
- Build a list of steps to enhance SO/AC accountability that should be taken respectively in WS1 and WS2.

The reviewed documents were:

1. [ICANN bylaws](#)
2. [The Affirmation of Commitments](#)
3. [ATRT 1 recommendations](#) and [ATRT 2 recommendations](#)
4. Operational rules and procedures of the various SOs/ACs

A first review of existing ICANN documentation shows that the provisions that oblige SO/ACs to be held accountable to their constituents or the larger internet community with regards to their actions, decisions or advice, are limited in number and scope.

An inventory of existing accountability mechanisms shows that documents reviewed include the following mechanisms:

Affirmation of commitments.-

The AoC includes some key commitments that while oriented to ICANN as an organization, should also be seen as applicable to the SO/ACs.

The identified mechanisms or criteria by which SO/ACs should conduct their work in relation to the DNS are:

- a) AoC paragraph 3.
- b) AoC paragraph 9.

ATRT

No direct recommendations with regard to SO/AC transparency or accountability have been made by the ATRT.

Bylaws

ICANN bylaws state that each SO/AC shall establish its own charter and procedural documents. It is also important to review whether SO/ACs should be added to specific sections in the bylaws as subject to provisions applicable to ICANN as a corporation. For example, it should be reviewed and discussed if Core Values should be applicable not only to the corporation's actions but also to the SO/AC activities.

SO/AC Documents

Further research needs to be done at SO/AC level to verify existing accountability mechanisms put in place for each SO/AC. An initial partial review suggests that statements of SO/AC operational procedures include little explicit account of SO/AC accountability practices.

Recommendations

Having reviewed and inventoried the existing mechanisms related to SO/AC accountability, it is clear that the current documentation needs to be enhanced in light of the new responsibilities associated with the WS1 proposals. The CCWG-Accountability recommends the following steps :

1. As part of work stream 1 proposals :
 - Include the review of SO and AC accountability mechanisms into the independent periodical structural reviews performed on a regular basis These reviews should include consideration on the mechanisms that each SO/AC, as the case may be, has in place to be accountable to their respective Constituencies, Stakeholder Groups, RALOs, etc.
 - This recommendation can be implemented through an amendment of Section 4 of Article IV of the Ican Bylaws, which currently describes the goal of these reviews as :

The goal of the review, to be undertaken pursuant to such criteria and standards as the Board shall direct, shall be to determine (i) whether that organization has a continuing purpose in the ICANN structure, and (ii) if so, whether any change in structure or operations is desirable to improve its effectiveness.

2. As part of the work stream 2 proposals :
 - Evaluate the proposed "Mutual Accountability Roundtable" to assess its viability and if viable, and undertake the necessary actions to implement it.

A short description of the concept was introduced by Willie Currie as such :

The idea of mutual accountability is that multiple actors are accountable to each other¹. How might this work in ICANN? It would be necessary to carve out a space within the various forms of accountability undertaken within ICANN that are of the principal-agent variety. So where the new community powers construct the community as a principal who calls the Board as agent to account, a line of mutual accountability would enable all ICANN structures to call one another to account. So one could imagine a Mutual Accountability Roundtable that meets at each ICANN meeting, perhaps replacing the current Public Forum. The form would be a roundtable of the Board, CEO and all supporting organisations and advisory committees, represented by their chairpersons. The roundtable would designate a chairperson for the roundtable from year to year who would be responsible for facilitating each Mutual Accountability Roundtable. Each Roundtable may pick one or two key topics to examine. Each participant could give an account of how their constituency addressed the issue, indicating what worked and didn't work. This could be followed by a discussion on how to improve matters of performance. The purpose would be to create a space for mutual accountability as well as a learning space for improvement.

- To carry a detailed working plan on enhancing SO/AC accountability as part of WS2.
- To assess whether the IRP would also be applicable to SO/ACs activities as well.

¹ L. David Brown: 'Multiparty social action and mutual accountability' in *Global Accountabilities: Participation, Pluralism and Public Ethics* Cambridge University Press, 2007.