

## Independent Review

### 1. Constitutional Court charged with:

- Determining whether ICANN has acted (or has failed to act) in violation of these Bylaws
- Hearing claims involving statutory rights of the Sole Member (subject to voting thresholds)

### 2. Standing

- Any person/entity materially harmed by action or inaction by ICANN in violation of its Bylaws; and
- The community, acting through the Sole Member (as determined by
- Process will provide relief for demonstrated likelihood of harm

### 3. Selection process

- Tender process for organization to provide administrative support – issue call for expressions of interest; soliciting applications from well-qualified candidates with the goal of securing diversity; reviewing and vetting applications
- Community selection of proposed panel members and overflow/alternative pool (process to be designed through CCWG)
- Board confirmation

### 4. Expertise

- Significant legal expertise, particularly constitutional and international law; and
- Expertise (through experience and/or training) on the workings and management of the DNS and ICANN;
- Access to skilled technical, business, diplomatic, regulatory and/or other experts upon request.

### 5. Diversity

- English as primary working language with provision of translation services for claimants as needed.
- Cultural, linguistic, gender, legal tradition diversity
  - Reasonable efforts; or
  - Minimum/Cap, e.g., no more than 2 panelists from any ICANN region

### 6. Size

- 7 members
- Process for selection from pre-vetted pool to respond to capacity issues – all panels will be chaired by a member of the standing panel
- Individual panels of 3 decision-makers in any case; appealable to full panel

### 7. Independence

- Bylaws obligation to fund process
- Fixed term
- Compensation may not be reduced
- Removal/recall only for cause (corruption, misuse of position for personal use)
- Pre-existing and post-term limits on relationships with ICANN and its SOs/ACs that create an appearance of conflict such as financial relationship with ICANN, SOs/ACs, constituencies

### 8. Exhaustion

Exhaustion requirement: measures designed to encourage participation in policy development process/disincentives to “sit out” or game process.

9. Settlement efforts

CEP or, at any party’s election, mediation

10. Decision

Action/inaction is/is not consistent with Bylaws  
Substantive decision on statutory rights

11. Binding

Bylaws to provide that 3-member decisions are binding (subject to appeal to full panel), subject to carve out for “matters so material to the Board that it would undermine its statutory obligations and fiduciary roles.” This standard is to be defined and clarified based on advice of counsel.

12. Rules, procedures, etc.

CCWG sub group, assisted by counsel and appropriate experts, will continue to work on implementation details and will work with initial panel on rules of procedure, etc. as part of WS2.