[CCWG-ACCT] Chris's summary of current thinking

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Hello All,

Below are some notes relating to Chris's summary that reflects a DRAFT of current
thinking.

We will refine these and post the final points into the public comment forum, once we
get feedback during this call.

Regards,
Bruce Tonkin


CCWG-Accountability Proposal Delivery Framework

1.      Develop Fundamental Bylaws and Process for Modification

a.      Bylaws areas:

        i.      ICANN's Mission and Core Values.

        ii.     Reviews imported from the Affirmation of Commitments, including
modifications with community consensus.

        iii.    The requirements for having community input and consultation on
development of ICANN Budget, Strategic Plans, Operating Plans and Standard Bylaws.
This includes the IANA Functions Budget as well.

        iv.     Commitment to fund IANA Functions housed within ICANN.

        v.      IANA Functions Reviews called for within the CWG Report, with
commitment to implement recommendations from those reviews.


b.      Change process - When Board proposes changes to Fundamental Bylaws (including
amendments, additions or deletions):

i.      Incorporate into the Bylaws a requirement for community comment and input.

ii.     Empower the community to support such a change through a demonstration of
consensus in the community.  Consensus in this situation is demonstrated through
meeting the specified threshold of numbers of SOs or ACs needed to support the proposed
change.

iii.    Once there is community consensus to support the change, the change is
effective upon 3/4 of the Board voting in favour of the change.


2.      IRP Enhancements
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a.   Roll back modification of standard of review that was in place before 2013.

b.   Commitment that revised standard of review, standing panel and procedural improvements will be part of next phase of work on IRP enhancements.

3.   Expand Reconsideration Process and Define Clear Escalation Path For Accountability

a.   Expand scope of reconsideration process to define as an initial step in seeking challenge against Board or staff action. Expansion could include:

i.   Allowance of Reconsideration Process to be used in allegations that the Board acted in violation of the Articles of Incorporation or Bylaws.

ii.   Increase from current process-driven bases to areas of more substantive concern, such as unfairness of a decision or inconsistency of logic.

b.   Following Reconsideration Process, use IRP and build escalation through accountability mechanisms, resulting in development of full appeals process.

4.   Establish new Multistakeholder Enforcement Mechanism (MEM):

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a.   Process for community to bring challenges against Board action that is alleged to be inconsistent with specified fundamental Bylaws.

b.   Binding arbitration process that is enforceable in California Courts

c.   ICANN funds MEM arbitrations.

d.   The MEM shall not be available for challenges based upon the adoption of ICANN's annual budget or annual operating plan.

5.   Community Involvement in Development of Standard Bylaws Changes, Budgets, Operating Plans and Strategic Plans

a.   Incorporate into the Bylaws a requirement for community comment and input on each of these areas.

b.   Empower the community to raise timely consensus-based issues or concerns on a proposed Board action ("Community Concerns"). Consensus in this situation is demonstrated through meeting the specified threshold of numbers of SOs or ACs needed to support the raising of an issue or concern.

c.   ICANN commits to working with the community to resolve areas of Community Concerns, through a consultation process.

d.   Provide a consultation process (borrowing from the GAC/Board consultation requirement), if the Board intends to take action that is inconsistent with the Community Concerns, to work to resolve the inconsistencies where possible, or if not possible, then a 2/3 Board threshold needed for Board to act against the general Community Concerns.

6.   Board Removal/Recall
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a.   Institute pre-service letters to require the resignation of each director upon the occurrence of specific events:

    i.   Serious violation of governance standard, including statutory causes for removal (such as fraud).

    ii.   Refusal to abide by the processes set forth to enable new community empowerment areas.

    iii.   Failure to abide by outcome of Multistakeholder Enforcement Mechanism (defined in #5 below).

b.   Process for invoking the resignation requirement. Any removal of a director is a very serious action, which must include a special community rationale and justification for removal of any individual directors and a special process for removals that would impact a significant number of voting directors. The process should allow for Board members to have an opportunity to defend against allegations that could support removal, and also include the potential for the imposition of sanctions less severe than removal.

7.   Incorporate Affirmation of Commitments Reviews into Bylaws

a.   Consider proper edits to WHOIS review.

b.   Commitment to work with community on guidelines for reviews:

    i.   Review team size and composition.

    ii.   Budget.

    iii.   Access to experts.

    iv.   Access to ICANN documentation.

    v.   Expectations on process for adoption and implementation of reviews.

    vi.   Optimization and standardization of review team processes.

8.   Implement All ICG Contingencies

a.   Confirm CSC is included in enhancements.

b.   Work with ccNSO and GNSO to confirm ability to address performance-related issues is appropriately documented.

9.   Institutionalize in Bylaws the current practice of Board/GAC consultation requirement used only over consensus advice

10.   Identify and commit to a process for defining continuous improvement work how the Board will consider those recommendations

a.   Bylaws requirement that continuous improvement ideas must be supported by a high threshold of the community and to uphold the following criteria consistent with the lines of the NTIA Criteria, which are:

    i.   Support and enhance the multistakeholder model;

    ii.   Maintain the security, stability, and resiliency of the Internet DNS;

    iii.   Meet the needs and expectation of the global customers and partners of the IANA services;

        iv.   Maintain the openness of the Internet; and

        v.   Not result in ICANN becoming a government-led or an inter-governmental organization.

b.   Utilize existing mechanisms as home for some of the other identified areas of continuous improvement, including ATRT3.

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