

“COMMENTS ON IANA TRANSITION AND ICANN ACCOUNTABILITY”

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"We find the mechanisms that will be implemented to enhance ICANN's accountability towards stakeholders very promising in theory. However, we believe that in order to achieve the expected results from the multi-stakeholder governance model, each contemplated mechanism should be thoroughly discussed, diligently tailored and especially be open to further revisions or replacements with alternative methods. Therefore, the transition period (in particular, the exercise of new mechanisms for the enhancement of accountability) in practice may not very straightforward as expected and may require many trials and errors.

First of all, one may rightly argue that granting the community the power to veto strategic/operational plans and budgets of ICANN brings the risk of slowing down or impeding ICANN's decision making and executive processes. Since the community is comprised of numerous members from different groups, having these members convene and decide on important managerial or executive decisions may be very time consuming. Moreover, in order for entities to function and fulfill their purposes while maintaining transparency and accountability, a balance must be struck between the utilization of managerial/executive mechanisms and supervisory/accountability mechanisms. In that sense, granting the community the power to veto strategic/operational plans and budgets of ICANN may be considered as crossing the line towards interfering with the management rather than enhancing accountability.

In addition, if the decisions such as those relating to strategic/operational plans and budgets, which are very crucial for ICANN are adopted under the influence or by the interference of the community, it may then be difficult hold anyone responsible when the final decisions turn out to be wrong, since the community cannot be addressed as a pre-determined executive body. In such cases, the board of ICANN may refuse to assume any liability.

Another important issue that must be addressed is the community itself, in other words, who actually makes the community. Does the community actually involve all stakeholders and does it represent the interest of the general public? If big corporations like Google and Amazon which, by nature, pursue their own financial interests, have influence on the community and have the last word, then granting these corporations such broad powers may have the exact opposite consequences than those that are purported. In such case, whether the community will act according to the interests of general public may be a matter of dispute.

After all, if the main purpose of this transition is to increase the involvement of the community, we think that ICANN should reach all stakeholders from all parts of the world. Especially, more introductory and promotional activities should be carried out in the developing countries. We believe that the first and most important step of implementing the multi-stakeholder governance model must be developing tools to increase the recognition of this model and extend the scope of the community.

In light of the foregoing, we believe that this transition that ICANN is contemplating to enhance accountability is very crucial and will set an example for other institutions. However, we are in the opinion that the steps that will be taken during this process should be more towards improving the supervision and redress mechanisms rather than granting the stakeholders the power to interfere with the operations of ICANN. Like in the corporations, the community may act as a general assembly which may have the following authorities (some of which are already contemplated as part of the transition period):

1- Appointment and removal of ICANN members (however, we think the authority to call entire ICANN Board goes beyond purpose) - This may either be used without any restrictions or in exceptional circumstances.

2- Amendment of ICANN bylaws

3- Taking action and calling Board members to account when the ICANN is in breach of its bylaws or other principles.

We believe that in order to avoid of misuse of the authorities and to ensure that community's decisions represent the actual public interest, all of the above authorities should require super-majority votes."