Comments by Eduardo Santoyo and Carolina Aguerre

12 September 2015

To the CCWG – Accountability, Work Stream 1:

We welcome the opportunity to comment on the second pubic draft of the CCWG Accountability document related with Work Stream 1 that aims to improve and refine ICANN accountability mechanisms prior to the IANA Stewardship transition.

We would like to acknowledge the immense amount of effort and dedication devoted by this working group and ICANN staff to produce such a valuable document for the ongoing process to refine accountability mechanisms. We are indebted to this effort as individuals who work within community. These comments only express some *personal reflections* on the process but they do not necessarily represent the interests of any of our employer / member organizations[1].

In light of this second draft that was submitted for public comments, we respectfully submit our views on some issues of the proposal that we consider need to be addressed / refined / amended.

Sole Member Model of ICANN

The Sole Member Model provides a good solution to for the implementation of a Community Mechanism, but as it had been already noted in several other submitted comments to this second draft proposal, there is concern about the distribution of votes.

As noted in both CENTR's and CIRA's comments, this allocation is at odds with the current composition of the voting members on the ICANN Board which is the only other point of reference for vote distribution within the ICANN structure. Of the seven ICANN voting members chosen by the SO/AC community, six are SOs and one is an AC. As a result, the proposal represents a significant shift in authority in the ICANN community away from the SOs and in favour of the ACs. A justification for this shift is not provided in the proposal.

In addition, and this is related to the next section (*Accountability for SO/AC*) , there is a greater need to bring accountability to the SO/AC's as the document rightly expresses "Watching the watchers" (p. 70-71).

Accountability for SO/AC

Without invoking an exercise of infinite regression on accountability, since the Community Mechanism proposed in this documents grants significant more authority on community structures and their mechanisms, we find that there should be more work on the subject, following the current Section IV, Article IV of ICANN's Bylaws:

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[1] We regret that there was no more time to discuss the work of the CCWG Accountability WS1 thoroughly with our community of ccTLDs in Latin America and the Caribbean.

- *(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.*

We believe that these issues should be addressed more thoroughly *before* refining a more definite proposal on the Community Mechanism, particularly when considering that there are current adjustments to ICANN's Mission which are more aligned with an organization oriented at the technical coordination of Internet identifiers (as an example, the core mission expressed on paragraphs 168 to 188);

Independent Review Panel

As noted in a comment by CENTR, there is not a clear definition of the scope if the appeals mechanism with regards to IANA issues which in the future will be handled by the PTI, since the appeals mechanism in this document seems to only be scoped towards ICANN. We hope this can be clarified in a future version.

Jurisdiction

As noted in other comments on this issue, the proposal accepts the status quo and we believe that for the present, this is appropriate. However, further analysis of the benefits of different jurisdictions could be useful in the future based on operational interests, as well as on the openness, stability and security of the domain name system.

Sincerely,

Eduardo Santoyo & Carolina Aguerre