

ICANN Community Forum

WP1 Working Document - September 2015

This document has five sections:

KEY POINTS: Key thoughts for the CCWG to consider at its meeting in Los Angeles 25-26 September.

A: thoughts for discussion – ideas or comments contributed by WP1 participants so far.

B: possible updated draft text - this is the current (Second Draft Proposal) text which we can track changes on to eventually turn into a proposed document for CCWG consideration.

Annex 1: the earlier text (pre Second Draft Proposal) we had, with more detail

Annex 2: the clean text from the Second Draft Proposal

KEY POINTS:

These are some key points for the CCWG to consider if it devotes any time at the Los Angeles meeting to developing the Community Forum idea. These key points are only the Rapporteur's perspective to help discussion and have no standing as a work output of WP1.

- Is there agreement about the general approach of mandatory discussion before community powers are exercised?
- To what degree should the discussions in the Forum be recorded / summarised / shared – or does any “official” summary of this sort detract from the Forum’s purpose?
- Is the principle of broad participation across the community, along with open participation of those interested (achieved by “open” events but some formalised minimum representation) the right one to pursue?
- What level of detail for the Forum is required and for what aspects?
 - Meeting approaches
 - Composition
 - Role in community powers
 - Overall ethos
 - Other things
- How would the Public Accountability Forum concept build off this Forum, or would it be better to keep the two concepts separate (even if there was similar participation)?

A: Comments for discussion

Jorge: As an initial and personal feedback to your email I would like to suggest that we focus on the “Community Forum” as described in the 2nd Public Comment Report (which is the version known to the public) and on the need to flesh out how its stated goals of allowing for a “discussion” and “conversation” before votes are cast, “share information” and help for a “better understanding” and “better informed decisions”, and allow for all participating SO/AC to “reach well-considered conclusions”.

In this regards, I see at least three aspects or layers which would be needed to be considered and worked out in order to achieve these (general) goals:

- Mutual information between participating SO/AC: each SO and AC informs about facts (such as reports, prior decisions, advice, etc.) relevant to the decision at stake.
- Discussion, deliberation and conversation among participating SO/AC – which should allow for at least some degree of mutual/successive interaction, i.e. through an appropriate number of consecutive physical or virtual meetings, each SO and AC shares its advice and recommendations. Other SO and AC would be expected to duly consider advice and rationales from other SO and AC, especially when they are grounded on the specific role and expertise of each SO/AC.
- Elements which would contribute to “well-considered conclusions”, by each participating SO/AC but with the aim, I would suppose, that these conclusions at least are based on the prior mutual information and conversation/discussion and may strive to a certain level of consensus

It is fundamental to listen to each others advice and recommendations, to really listen and try to understand each others perspective - hence, to take into account each others advice and recommendations, always with the goal of striving for consensus within this multistakeholder setting

As a conclusion a neutral and independent Facilitator would draw a neutral and objective report of the facts and arguments expressed during the proceedings (with an opportunity for SO/AC and individuals to comment on a draft version of the report), which would be duly considered by voting SO/AC before exercising their vote.

Proceedings would be transparent and open to individuals.

Proceedings would be conducted by an independent and neutral facilitator. The facilitator would ensure that procedures are complied with, the openness and transparency, that a public record is formed, would facilitate virtual/physical discussions. and would write an objective and neutral report on facts and arguments expressed during the proceedings.

We also should consider how these goals may best be achieved in physical and virtual settings, as the conditions for interaction may vary significantly between both settings.

Matthew Shears 17/9/15 9:45 PM

Comment [1]: I think the idea of a neutral facilitator and creation of a public record are important but I wonder to what degree a neutral facilitator would be able to write a report given the intricacies of some of the issues the forum is likely to be considering. I would suggest that the transcription should be sufficient a “public record” rather than a report from someone who is not steeped in the ICANN lore.

Steve: Add that ICA can avail itself of legal advice, like we did in CCWG and ICG. (+1 James, This will be critical for the community to be able to come to well informed positions)

Malcolm: Distinguish between those who want more detail about the mode of operation, and those who want more detailed rules to make the forum perhaps less open / more specified e.g. in terms of participation,

Greg: Role of the Forum in the whole flow of community decision-making - how the forum works and the linkage between the outcome of its forum and the outcome of votes.

Greg: Be explicit about how the Forum concept enhances the multistakeholder model. The "star of the show" in the community proposal. It is the "brain" of the CMSM.

Jorge: referred to his comments (as above), and look to the public comments.

Tijani: must be inclusive of all those interested; a way for community to discuss issues and not make decisions. If we agree on these two issues, the rest will be easier to deal with. Stay away from defining "membership" etc.

Roelof: discussion in forum embedded in **bylaws as precondition prior to use powers?**

Greg: concern that this forum will have no "decision-making power" - would it just be like the Public Forum at an ICANN meeting? Blow off steam, etc? In other words, we need to revisit the sense of an "outcome" from the Forum?

Jordan: perhaps the outcome is a summary of the views expressed; also, if this Forum doubles as the Public Accountability Forum, the outcome could be a more formal Report of the accountability issues raised from around the community, and how the entity being held to account has responded to the issue - and perhaps any commitments it makes to resolve or respond to those concerns.

Steve: the non-decision nature is meant to reflect the purpose of the Forum, which is discussion - decisions live in the SOs and ACs. Could have a role in the MEM model too.

Jordan: there seems to be consensus about the importance of the cross-community dialogue embedded in the Forum concept.

Greg: show the link between the Forum discussion and the decisions of the SOs and ACs, whether those are in the CMSM or the MEM. There won't be 100% participation in any mechanism but hopefully there can be in the Forum.

Paul: take AUDA questions as helpful ones that need to be answered. **Precise triggers for how the Forum is convened; operational details for how it will function incl e.g. legal advice; getting to what outcomes it can/will arrive at once it sums up.** Not too relevant whether MEM or CMSM ends up being implemented.

Jordan Carter 15/9/15 2:47 AM

Comment [2]: Agree - this is a requirement in the Second Draft Proposal

Matthew Shears 17/9/15 9:50 PM

Comment [3]: this approach begins to sound like the forum is moving from discussions to decision - the views and concerns should be aired in the forum and as a matter of public record they would hopefully be coherent and well articulated and not blowing off steam. but the forum should remain a space for the views to be heard and deliberated (constructively)

Malcolm: be careful about "outcomes" - recall the purpose of this forum. Ensure there is the sharing of information required. decision shaping through true and candid deliberation should be our goal, not decision-making

Matthew Shears 17/9/15 9:48 PM

Comment [4]: + 1

Greg: could the Forum come up with a recommendation that would get the SOs and ACs to consider the views of the forum.

Jorge Cancio 15/9/15 2:55 AM

Comment [5]: this could lead to a "negotiations, instead of a deliberation, unless the "outcome" is just a report on the information shared, the mutual recommendations and advice delivered by SO/AC and participating individuals, and an objective report on the interactions

Jordan: could be problematic - would require representation, quorums, balance, etc.

Kavouss: good holidays to Greg and all; as ICG liaison has drawn attention of Chair to requirements of CWG proposal and their need to be met.

B: Possible updated draft text

In developing the Sole Member Model, the CCWG-Accountability has been careful to specify that any decisions made by the Member are simply decisions by those SOs and ACs who have votes within it (as set out in Section 6.2). Those SOs and ACs make their decisions as to how to allocate their votes internally.

Avri Doria 14/9/15 9:07 PM

Comment [6]: does this allow for the condition where some SOAC may have bound votes and others may use a representative model that allows the representatives to vote as they see fit.

Alongside the powers granted to the community through the Sole Member Model, the CCWG-Accountability has determined that there needs to be a Forum where the use of any of the powers is discussed across the whole ICANN community – before the power under consideration is potentially (?) used.

if we want it to be uniform we can set the chair's/alternate of the various ACSO are the ones to deliver the vote. but just one vote from ACSO no matter how many votes that ACSO might have.

This discussion phase would help the community reach well-considered conclusions about using its new powers, and would ensure that decisions were taken on the basis of shared information as well as what was known within the individual decision-making processes of the SOs and ACs that cast votes in the Community Mechanism.

Anonymous 18/9/15 6:24 PM

Comment [7]: Not sure what this means

Importantly, it would also create an opportunity for Advisory Committees that aren't currently participating in the Community Mechanism to offer their insight, advice and recommendations on the proposed exercise of a community power.

An ICANN Community Forum would bring together people from all the SOs and ACs, the ICANN Board and Staff representatives.

Before a community power could be exercised, there would be discussion and debate in the Forum. People would have a chance to examine the issue before a decision was taken in the Community Mechanism. Decisions made would thereby be better informed, and the community's views more considered, than simply allowing SOs and ACs to make decisions through the Community Mechanism without such conversation.

The Forum would have no standing and would make no decisions. It would be open to participation from the full diversity of the ICANN community. It should be open to members of the public – certainly to observe all its proceedings, and probably to participate as well.

Matthew Shears 17/9/15 9:52 PM

Comment [8]: am ambivalent about this but we need to be consistent - see earlier in text where it clearly refers only to ICANN community

Such a forum could also be the basis of a Mutual or Public Accountability Forum, suggested as an annual meeting in conjunction with ICANN's Annual General Meeting at the third meeting of the year. Such an event would help the various components of the ICANN system hold each other to account, transparently and in public.

The CCWG-Accountability will pursue the establishment of the ICANN Community Forum in the implementation phase of Work Stream 1.

Matthew Shears 17/9/15 9:53 PM

Comment [9]: I have to say I don't see much value in adding elements in the proposal that have not been discussed or defined sufficiently.

Annex 1: Prior Draft with Additional Detail (July 2015)

NOTE: This text was drafted before the term “Forum” came into use, and the tracked changes are additions that were not in the original draft of this text.

In developing the Sole Member Model, the CCWG-Accountability has been careful to specify that any decisions made by the Member are simply decisions by those SOs and ACs who have votes within it (as set out in section 5A.2 of this report). Those SOs and ACs make their decisions as to how to allocate their votes internally.

Alongside the powers granted to the community through the Sole Member Model, the CCWG-Accountability has determined there needs to be a forum where the use of any of the powers is discussed across the whole ICANN community – **before** any of the powers are exercised. Such a forum can also be the structure through which the proposed Public Accountability Forum discussed elsewhere in this report can be organized.

The CCWG-Accountability therefore proposes the creation of the **ICANN Community Assembly** or ICA. It would be a grouping formed under the ICANN bylaws consistent with the matters described below.

The ICA would have the following **purposes**:

- a) To be a discussion forum where the whole community discusses and considers matters before any particular Community Power is exercised.
- b) To be the basic structure through which the Public Accountability Forum is organized.
- c) ((Any other functions set out in this report for the ICA need to be listed.))

The ICA would have the following **working methods**:

- a) The ICA is **advisory and discussion** based – it has **no** decision-making rights other than to select a Chair among its members, and to agree matters related to its own operation as a group.
- b) In giving effect to its main purpose, the ICA would be convened with one week’s notice after a successful petition is made to exercise one of the community powers set out in this report.
- c) All proceedings of the ICA will be open to any and all members of the ICANN community and the public, whether conducted electronically or face to face.
- d) The ICA is expected to meet face to face at general ICANN meetings, and would otherwise work electronically unless four of the seven participating SOs and ACs called for an out-of-cycle face to face meeting[1].

[e\) The ICA could request legal consultation and advice from an outside lawyer or law firm that is experienced in California public benefit corporation law. As with the](#)

CCWG and ICG, the ICA would select the lawyer/firm, and it is expected that ICANN would fund legal expenses.

The ICA would have the following **participation**:

- a) **Each SO and AC defined in the ICANN Bylaws** would be asked to nominate between one and seven people to participate in the ICA – this is to ensure that there is at least some presence from each part of the community in the ICA, and some likelihood that its activities and discussions will include a wide range of perspectives.
- b) The **ICANN Board** would be asked to nominate between one and three members to participate in the ICA.
- c) The **ICANN President and CEO** would be invited to participate in meetings of the ICA, along with up to two **ICANN staff members** chosen through some open method involving ICANN staff.
- d) Any ICANN participant or member of the public will be able to subscribe to the email list, or attend virtual sessions of the ICA.

The CCWG-Accountability believes that the establishment of this body will help ensure that the use of the accountability powers set out in this report are done in a way that is of benefit to the whole ICANN community, and will help support and sustain cross-community dialogue and discussion not only on accountability matters, but more broadly.

[1] In such event, ICANN would pay for travel and attendance of up to five representatives of each SO and AC on the same basis as it has supported participation in the CCWG-Accountability.

Steve DelBianco 15/9/15 1:34 AM

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Steve DelBianco 15/9/15 1:34 AM

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Annex 2: Community Forum text from the Second Draft Proposal (August 2015)

In developing the Sole Member Model, the CCWG-Accountability has been careful to specify that any decisions made by the Member are simply decisions by those SOs and ACs who have votes within it (as set out in Section 6.2). Those SOs and ACs make their decisions as to how to allocate their votes internally.

Alongside the powers granted to the community through the Sole Member Model, the CCWG-Accountability has determined that there needs to be a forum where the use of any of the powers is discussed across the whole ICANN community – before the power under consideration is used.

This discussion phase would help the community reach well-considered conclusions about using its new powers, and would ensure that decisions were taken on the basis of shared information as well as what was known within the individual decision-making processes of the SOs and ACs that cast votes in the Community Mechanism.

Importantly, it would also create an opportunity for Advisory Committees that aren't currently participating in the Community Mechanism to offer their insight, advice and recommendations on the proposed exercise of a community power.

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This sort of forum would have no standing and would make no decisions. It would be open to participation from the full diversity of the ICANN community. It should be open to members of the public – certainly to observe all its proceedings, and probably to participate as well.

Such a forum could also be the basis of a Mutual or Public Accountability Forum, suggested as an annual meeting in conjunction with ICANN's Annual General Meeting at the third meeting of the year. Such an event would help the various components of the ICANN system hold each other to account, transparently and in public.

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