

[CCWG-ACCT] A way to avoid the 'The Single Member Can Do Anything!' problem

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Wed Sep 30 17:15:32 UTC 2015

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Thanks Nigel.

In no particular order, my interpretation of the Board's written comments, what we heard in Los Angeles and from Fadi yesterday is:

- Introducing a different governance structure, i.e. membership, is new, untested, and cannot be proven to resist capture in the limited time available to meet the September 2016 date.
- Shifting authority from the Board to an untested membership body is potentially destabilizing and will be difficult or impossible to sell as not introducing risk at a delicate time.
- If we're going to shift authority, we must also shift a commensurate level of accountability, and the current SOs and ACs do not have sufficient accountability at this time.
- ICANN and its SOs/ACs need to be safe from capture from outside and from within; empowering the SOs and ACs without clear safeguards is problematic.
- Concentrating power in a new "sole membership" body is not balanced if it doesn't include all community members, and two groups (SSAC and RSSAC) have said they want to remain advisory.
- Shifting from consensus-based decision-making to reliance on a voting structure is not consistent with the multi-stakeholder model.
- The CCWG recommendation is too complex and difficult to explain/understand, so we need to make smaller, incremental changes that are more easily implemented and understood.
- A recommendation requiring a substantial governance restructuring will suggest that ICANN is currently broken -- a politically risky message going into the transition.

I'm obviously not in a position to speak for the Board, but that's my non-legalistic reading of the concerns. I'd be happy to be corrected if my interpretation is off-base.

That was a reply to your question (a). I can't respond to question (b).

Regards,
Keith

-----Original Message-----

From: [accountability-cross-community-bounces at icann.org](mailto:accountability-cross-community-bounces@icann.org) [mailto:[accountability-cross-community-bounces at icann.org](mailto:accountability-cross-community-bounces@icann.org)] On Behalf Of Nigel Roberts

Sent: Wednesday, September 30, 2015 12:46 PM

To: [accountability-cross-community at icann.org](mailto:accountability-cross-community@icann.org)

Subject: Re: [CCWG-ACCT] A way to avoid the 'The Single Member Can Do Anything!' problem

Let's be Frank, here.

I'm not entirely unreceptive to the view expressed to me by at least one Board member regarding the idea of a quick win.

HOWEVER, despite the fairly emphatic nature of the Board's objection to membership model, I do not believe I have read or heard any rationale or reasons for their, apparently unanimous, position.

Personally I have serious doubts about the Single Member model, although, probably, they are not the same doubts as the Board's.

But that is the outcome of this WG, and it should not tear up months of work without a rationale. This is simply the IFWP and history repeating itself, otherwise.

Apparently there is some legal difference of opinion between Sidleys and Jones Day on the technicalities. But I do not believe that can be the only reason.

So, can someone please explain, in simply, preferable non legalistic terms why

- (a) the CCWG proposal is unsuitable
- (b) the Board's proposal is more suitable.

> That said, I'm not confident this would resolve the Board's concerns with membership, so we will need to consider all options available to deliver community empowerment, including variations of the sole designator implementation.

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