

# Cross Community Working Group (CCWG) Accountability

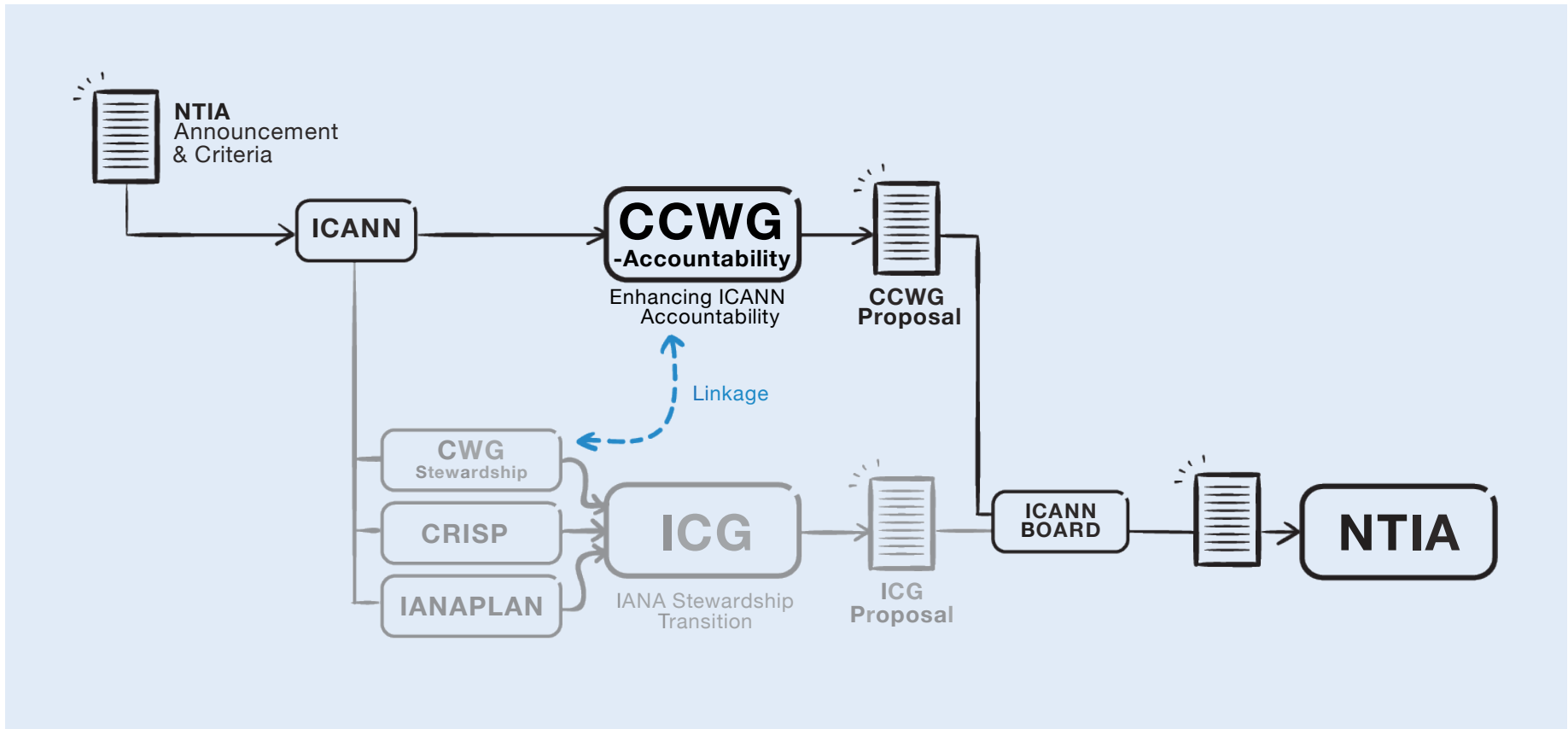
Update

8 October 2015

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# The Two-Track Parallel Process

Since the National Telecommunications and Information Administration (NTIA) announced their intent to transition stewardship of the IANA functions, the ICANN community has been working in a two-track parallel process. The ICG has finalized its Interim Draft IANA Stewardship Transition Proposal, and the CCWG-Accountability has finalized its 2nd Draft Proposal for Work Stream 1.



# Overview

## Goal

The CCWG-Accountability is expected to deliver proposals that would enhance ICANN's accountability towards all its stakeholders.

## Scope

**Work Stream 1** - Focuses on mechanisms enhancing ICANN's accountability that must be in place or committed to within the time frame of the IANA Stewardship Transition.

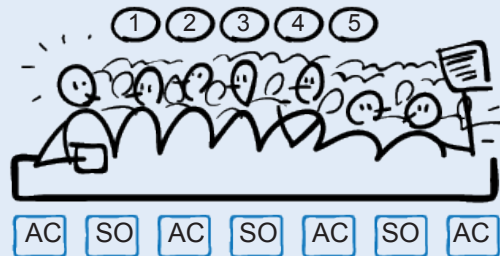
**Work Stream 2** - Focuses on addressing accountability topics for which a timeline for developing solutions and full implementation may extend beyond the IANA Stewardship Transition.

## The ICANN Community & Board of Directors

The ICANN Community is organized in three Supporting Organizations (SOs) and four Advisory Committees (ACs), each represents key stakeholders. While the ICANN Board has the ultimate authority to approve or reject policy recommendations, Supporting Organizations are responsible for developing and making policy recommendations to the Board. Advisory Committees formally advise the ICANN Board on particular issues or policy areas. Most of the CCWG-Accountability's efforts are focused on ensuring accountability of the Board of Directors (and ICANN staff) toward these stakeholders, but the question of accountability of the community was also worked on.

# Proposed Enhanced Accountability Mechanisms

The CCWG-Accountability has identified enhancements required to those building blocks that would form the accountability mechanisms required to improve ICANN's accountability.



## The Empowered Community

refers to the powers that allow the community SOs & ACs to take action should ICANN breach the principles (i.e. the People).

REVIEW / REJECT

REMOVE / RECALL

STRUCTURAL REVIEW  
As Community accountability

- BUDGET
- STRATEGY/OPS PLAN
- BYLAWS

## ICANN Board

has the ultimate authority to approve or reject policy recommendations, developed by the SOs. ACs formally advise the ICANN Board on particular issues or policy areas (i.e. the Executive).



Fundamental  
Bylaws

NEW

Existing  
+  
New  
mechanisms  
+  
AoC  
Reviews



## The Principles

guarantee the core mission, commitments and values of ICANN through its Bylaws (i.e. the Constitution).

NEW IRP

7+ MEMBER STANDING PANEL



## Independent Appeals Mechanisms

confers the power to review and provide redress, as needed (i.e. the Judiciary).

# Community Mechanism as Sole Member Model

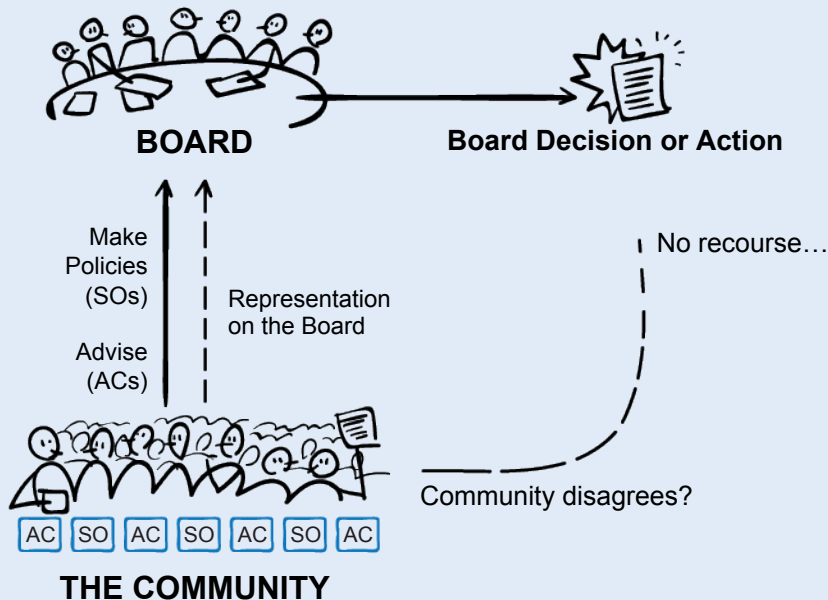
Many corporate structures and legal mechanisms have been thoroughly explored for organizing the community and enabling it to have enforceable powers, which generally requires “legal personhood” in any jurisdiction.

**The CCWG-Accountability is recommending the Community Mechanism as Sole Member Model.**

The Community Mechanism in which SOs/ACs participate jointly to exercise their community powers would be built into ICANN’s Bylaws and be the Sole Member of ICANN. Decisions of the SOs/ACs per the Community Mechanism would directly determine exercise of the rights of the Community Mechanism as Sole Member (CMSM).

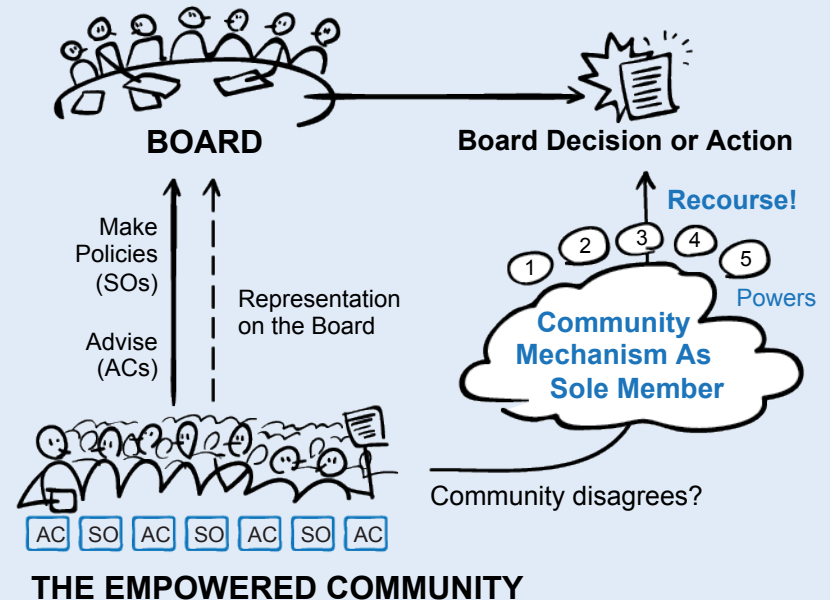
## Current

If the community disagrees with a Board decision or action, they have no recourse to challenge it.



## Proposed

If the community disagrees with a Board decision or action, they can challenge it exercising their powers through the CMSM.



# The Empowered Community's Powers

The CCWG-Accountability recommends the ICANN community be empowered with five distinct powers.



## 1. Reconsider/reject Budget or Strategy/Operating Plan

This power would give the community the ability to consider strategic/operating plans and budgets after they are approved by the Board (but before they come into effect) and reject them.



## 2. Reconsider/reject changes to ICANN "Standard" Bylaws

This power would give the community the ability to reject proposed Bylaws changes after they are approved by the Board but before they come into effect.



## 3. Approve changes to "Fundamental" Bylaws

This power would form part of the process set out for agreeing any changes of the "Fundamental" Bylaws. It requires that the community would have to give positive assent to any change, a co-decision process between the Board and the community and that such changes would require a higher vote.



## 4. Remove individual ICANN Board Directors

The community organization that appointed a given director could end their term and trigger a replacement process. The general approach, consistent with the law, is that the appointing body is the removing body.

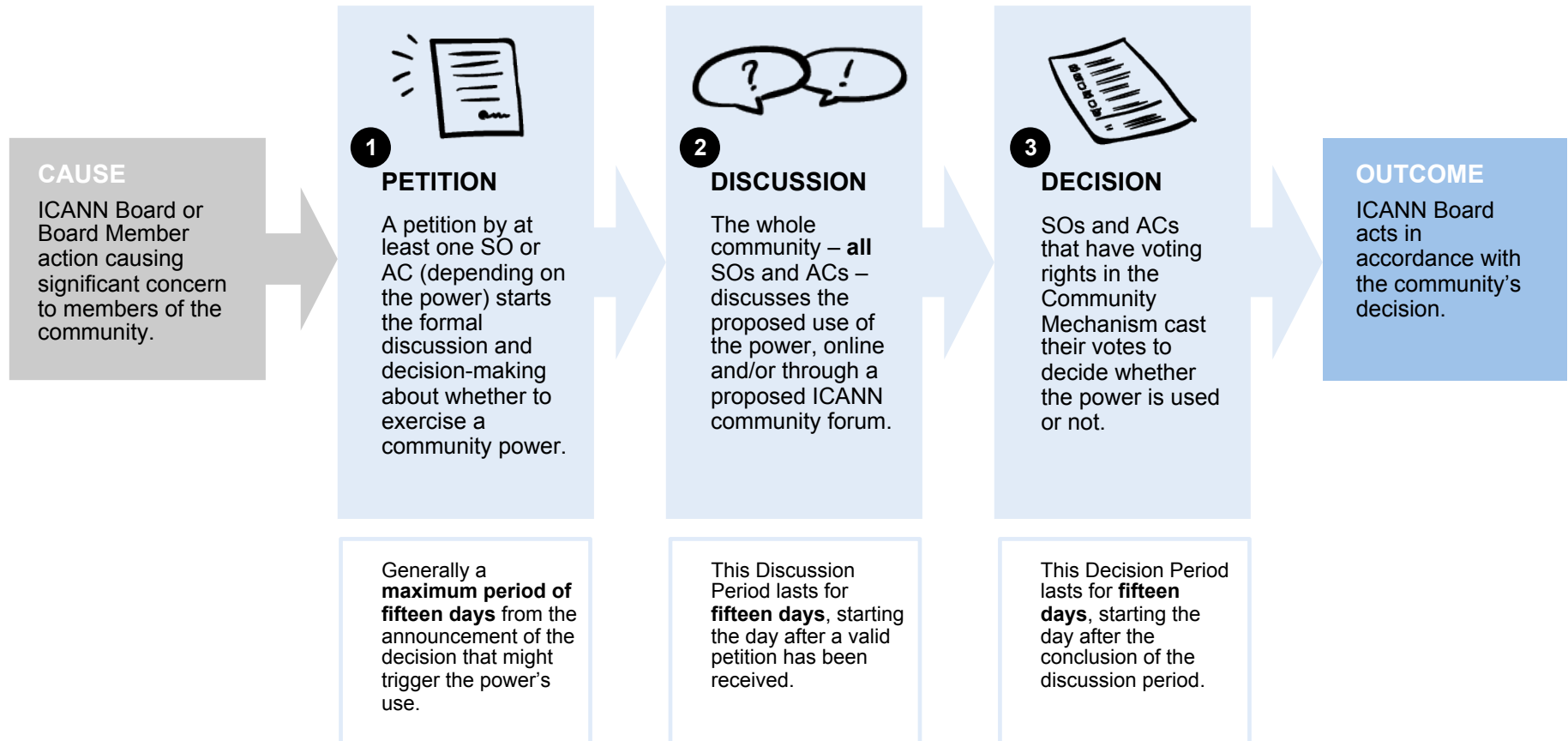


## 5. Recall entire ICANN Board

This power would allow the community to cause the removal of the entire ICANN Board. (expected to be used only in exceptional circumstances).

# CMSM Model: Exercising Powers

How does the community exercise its powers? The exercising of different community powers may include unique steps relevant to a given power, but the general process is as follows.



Notable exceptions to this three-step process are for the powers to remove an ICANN director appointed by an SO/AC (where there is an initiating trigger vote in the SO/AC to start consideration of the process) or to co-approve changes to Fundamental Bylaws (where its use is automatically triggered by any proposal for changes to Fundamental Bylaws). To Recall the Entire ICANN Board requires two SOs or ACs (at least one of which is an SO) to sign a petition.

# Current key issues



## Level of enforceability

- Especially for budget and separation powers
- This drives the « model » discussion



## Decision making for the community

- Concerns regarding weights and opt-in / opt-out
- Consensus decision making investigated



## SO and AC accountability to the global Internet community

- New requirement - core reason for Board concerns
- Very few concrete suggestions so far



## Could there be a 2 steps approach ?

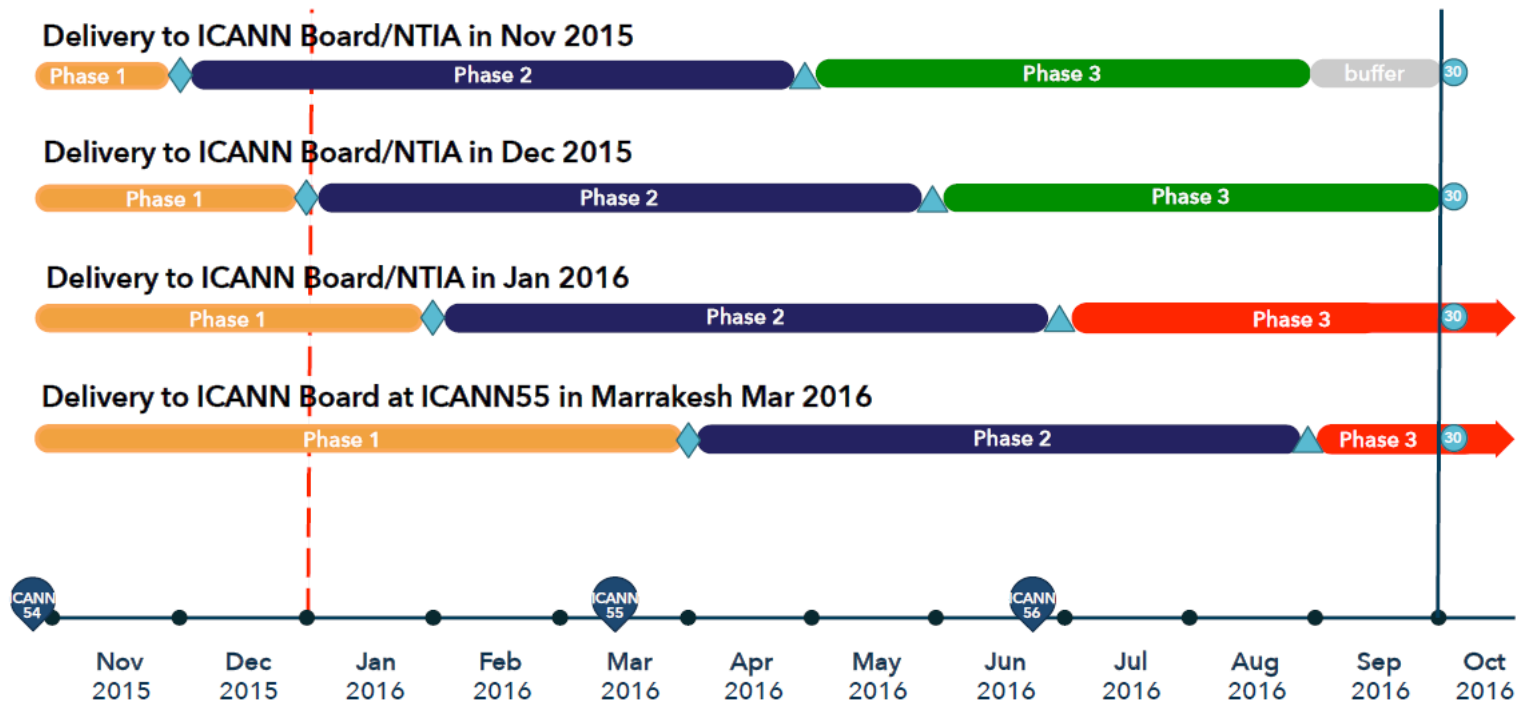
- 1st phase with powers and low level of enforceability
- Governance review with « iron clad » guarantees



# Timeline : Solid orange bordering on red

## Effect of Possible Delays on Overall Timeline

Phase 1: Community Proposal & Public Comment - Phase 2: NTIA Review/Evaluation & Implementation Planning - Phase 3: Impl. Execution



◆ Multistakeholder Community Delivers to ICANN Board

▲ NTIA Approval

30 NTIA Contract Expiration - 30 Sep 2016



## Expected outcome

- Find new common ground for consensus
- Assess initial support within SO/Acs
- Decide whether extra public comment is needed
- Clarify role of the Icann Board in the process

## How can you help ?

- Have clear view of your core requirements and expectations
- Active listening and open mind
- Dedicate any available time to the heavy lifting tasks of reviewing public comments or drafting