

Annex 10 – Recommendation #10: Enhancing the Accountability of Supporting Organizations and Advisory Committees

1. Summary

- 1 The CCWG-Accountability recommends addressing the accountability of Supporting Organizations and Advisory Committees in a two-stage approach:
 - **In Work Stream 1:** Include the review of Supporting Organization and Advisory Committee accountability mechanisms in the independent structural reviews performed on a regular basis.
 - **In Work Stream 2:** Include the subject of Supporting Organization and Advisory Committee accountability as part of the work on the Accountability and Transparency Review process.

2. CCWG-Accountability Recommendations

- 2 Having reviewed and inventoried the existing mechanisms related to Supporting Organization and Advisory Committee accountability, it is clear that the current mechanisms need to be enhanced in light of the new responsibilities associated with the Work Stream 1 recommendations. The CCWG-Accountability recommends the following:
- 3 **Work Stream 1:** Include the review of Supporting Organization and Advisory Committee accountability mechanisms in the independent periodical structural reviews that are performed on a regular basis.
 - These reviews should include consideration on the mechanisms that each Supporting Organization and Advisory Committee has in place to be accountable to their respective Constituencies, Stakeholder Groups, Regional At-Large Organizations etc.
 - This recommendation can be implemented through an amendment of Section 4 of Article IV of the ICANN Bylaws, which currently describes the goal of these reviews as:
 - *The goal of the review, to be undertaken pursuant to such criteria and standards as the Board shall direct, shall be to determine (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.*

- 4 **Work Stream 2:** Include the subject of Supporting Organization and Advisory Committee accountability as part of the Accountability and Transparency Review process.
 - Evaluate the proposed “Mutual Accountability Roundtable” to assess its viability and, if viable, undertake the necessary actions to implement it. ¹
 - Develop a detailed working plan on enhancing Supporting Organization and Advisory Committee accountability.
 - Assess whether the Independent Review Process would also be applicable to Supporting Organization and Advisory Committee activities as well.

3. Detailed Explanation of Recommendations

- 5 As the Community’s Power is enhanced, legitimate concerns have arisen regarding the accountability of the community (organized as Supporting Organizations and Advisory Committees) in enacting those powers. In other words, “Who watches the watchers?”
- 6 In response to these concerns, the CCWG-Accountability:
 - Identified the existing accountability mechanisms in place for Supporting Organizations and Advisory Committees.
 - Reviewed existing mechanisms in order to assess whether and how they address the concerns expressed by the community during the first public comment period.
 - Built a list of steps to enhance Supporting Organization and Advisory Committee accountability that should be addressed in Work Stream 1 and Work Stream 2.
- 7 A review of existing ICANN documentation shows that the provisions that oblige Supporting Organizations and Advisory Committees to be held accountable to their constituents or the larger Internet community with regards to their actions, decisions or advice, are limited in number and scope.
- 8 The reviewed documents were:

1. [ICANN Bylaws](#)

¹ CCWG-Accountability Advisor Willie Currie introduced a short description of the mutual accountability roundtable: *The idea of mutual accountability is that multiple actors are accountable to each other. How might this work in ICANN? It would be necessary to carve out a space within the various forms of accountability undertaken within ICANN that are of the principal-agent variety. So where the new community powers construct the community as a principal who calls the Board as agent to account, a line of mutual accountability would enable all ICANN structures to call one another to account. So one could imagine a Mutual Accountability Roundtable that meets at each ICANN meeting, perhaps replacing the current Public Forum. The form would be a roundtable of the Board, CEO and all supporting organizations and advisory committees, represented by their chairpersons. The roundtable would designate a chairperson for the roundtable from year to year who would be responsible for facilitating each Mutual Accountability Roundtable. Each Roundtable may pick one or two key topics to examine. Each participant could give an account of how his or her constituency addressed the issue, indicating what worked and didn't work. This could be followed by a discussion on how to improve matters of performance. The purpose would be to create a space for mutual accountability as well as a learning space for improvement.*

- 9 ICANN Bylaws state that each Supporting Organization and Advisory Committee shall establish its own charter and procedural documents. Further research needs to be done at the Supporting Organization and Advisory Committee level to verify existing accountability mechanisms put in place for each Supporting Organization and Advisory Committee.
- 10 It is also important to review whether Supporting Organizations and Advisory Committees should be added to specific sections in the Bylaws as subject to provisions applicable to ICANN as a corporation. For example, it should be reviewed and discussed if Core Values should be applicable not only to the corporation's actions but also to the Supporting Organizations and Advisory Committees activities.

2. The Affirmation of Commitments

- 11 The Affirmation of Commitments includes some key commitments that while oriented to ICANN as an organization, they should also be seen as applicable to the Supporting Organizations and Advisory Committees that form the wider ICANN organizational structure as defined in ICANN's Bylaws.
- 12 The identified mechanisms or criteria in the Affirmation of Commitments by which Supporting Organizations and Advisory Committees should conduct their work in relation to the DNS are: paragraph 3 and paragraph 9.

3. ATRT 1 recommendations and ATRT 2 recommendations

- 13 The Accountability and Transparency Reviews have made no direct recommendations with regards to Supporting Organization and Advisory Committee transparency or accountability.

4. Operational rules and procedures of the various Supporting Organizations and Advisory Committees

- 14 Having inventoried the existing mechanisms related to Supporting Organization and Advisory Committee accountability in light of the new responsibilities associated with the Work Stream 1 proposals, it became clear that the current framework for Supporting Organization and Advisory Committee accountability needed to be enhanced.
- 15 The aim of the enhancements is to ensure that Supporting Organizations and Advisory Committees are accountable not only to their current members, but also to the wider communities that these bodies are designed to represent.

4. Changes Made Since the Second Draft Proposal

- 16 During the Public Comment Period on the 'CCWG-Accountability Second Draft Proposal regarding Work Stream 1 Recommendations', the community presented several concerns and suggestions on how the accountability of the Supporting Organizations and Advisory Committees could be enhanced. As the focus of Work Stream 1 recommendations is to ensure that the accountability enhancements necessary for the IANA Stewardship Transition to occur are in place, the CCWG- Accountability will discuss other aspects of this topic as part of Work Stream 2.

- 17 Suggestions and concerns raised during the second comment period that are open for further exploration as part of Work Stream 2 work on Supporting Organization and Advisory Committee accountability are:
1. **Who watches the watchers?** To avoid an infinite loop, it was suggested that the Supporting Organizations and Advisory Committees should be subject to the Independent Review Process when their actions go against the ICANN Bylaws.
 2. Consider ways to limit conflicts of interest within Supporting Organizations and Advisory Committees.
 3. Implement the principle of non-cumulative holding of offices, successively or simultaneously, to mitigate the risk of "capture" of the new institutional framework of ICANN by individuals.
 4. Establishment of an independent commission in charge of controlling the conflict of interest statements issued by the ICANN Board members.
 5. Structural reviews should be undertaken as a two-step process: first, the review team works with the incumbent Supporting Organization or Advisory Committee; second, the resulting review is sent to an independent examiner.
 6. The CCWG-Accountability should also consider whether other steps are necessary before escalating to adversarial arbitration when Supporting Organization and Advisory Committee accountability issues arise instead of going directly to an Independent Review Process.
- 18 The majority of comments received on Supporting Organization and Advisory Committee accountability in Draft 2 were related to issues that will be addressed in Work Stream 2. There were some requests for clarification on Work Stream 1 items, and the text has been edited accordingly. However, there have been no changes to the recommendations for Work Stream 1 work on Supporting Organization and Advisory Committee accountability.

5. Stress Tests Related to this Recommendation

- ST12 (capture)
- ST 33
- ST34

6. How does this meet the CWG-Stewardship Requirements?

- N/A

7. How does this address NTIA Criteria?

19 **Support and enhance the multistakeholder model.**

- Enhancements of ICANN's Accountability are all enhancements to ICANN's overall multistakeholder model. Greater accountability of Supporting Organizations and Advisory Committees to their members and stakeholders is a part of enhancing the wider multistakeholder model of ICANN.
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20 **Maintain the security, stability, and resiliency of the Internet DNS**

- N/A
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21 **Meet the needs and expectation of the global customers and partners of the IANA services**

- N/A
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22 **Maintain the openness of the Internet**

- N/A
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23 **NTIA will not accept a proposal that replaces the NTIA role with a government-led or an intergovernmental organization solution.**

- The proposals for enhanced Supporting Organization and Advisory Committee accountability are based on Mutual Accountability enhancements, instead of accountability towards a government led or intergovernmental organization. Governments are recognized as key stakeholders, especially in their role with regards to public policy.
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