Board Initial Comments on the Proposed Changes to the Mission Statement

In reviewing the proposed revisions to the Mission Statement, the Board acknowledges and appreciates the important dialogue and work of the CCWG, including the intended purposes for the revisions being proposed. The Board believes that the Mission Statement should be clear and factually accurate.

The Board understands that the CCWG discussion is addressing ways for the ICANN Bylaws to express clear limits on ICANN's current scope of responsibilities both within its Mission and in service to its Mission, and for this scope limitation to be in the Fundamental Bylaws. The Board notes that the scope may change over time, such as through the strategic planning process, and this may lead to changes to the scope defined in the Bylaws (through the Fundamental Bylaws approval process). Therefore, the Board suggests therefore that the changes proposed by the CCWG should be grouped into two sections in the Fundamental Bylaws: (a) The Mission and (b) Scope of Responsibilities.

The Mission

The Mission Statement should be a short and simple statement that conveys what ICANN's purpose is and relates to the specific sector of activities in which ICANN operates.

The Board therefore believes that the proposed language in the Chapeau serves, on its own, as a statement of ICANN's mission. It provides clarification and simplification. The Board suggests adding 'global' and 'interoperable' before "Internet's unique identifier systems" to reinforce the single, global Internet.

The Mission Statement could therefore be just as follows:
"The Mission of The Internet Corporation for Assigned Names and Numbers ("ICANN") is to ensure the stable and secure operation of the global, interoperable Internet's unique identifier systems.

Scope of Responsibilities
The Board suggests that the purpose of this section is to define ICANN's current scope of responsibilities within its Mission and in service to its Mission. It should describe what ICANN does, not how it does it, and must not change ICANN's existing role because that would have consequences for ICANN's operations, commitments, and responsibility to the Community.

This section should be self contained, without reserving portions to be defined in other documents and without reference to other organizations. Changing those other documents or changes in those other organizations would, in effect, change the ICANN Fundamental Bylaws,

The Board makes the following comments for consideration as part of the direction for the Bylaws drafting:

Paragraph 1 - CCWG Current Proposal
Proposed CCWG language – "Coordinates the allocation and assignment of names in the root zone of the Domain Name System ("DNS"). In this role, ICANN's Mission is to coordinate the development and implementation of policies:

> · For which uniform or coordinated resolution is reasonably necessary to facilitate the openness, interoperability, resilience, security and/or stability of the DNS;
>
> · That are developed through a bottom-up, consensus-based multistakeholder process and designed to ensure the stable and secure operation of the Internet's unique names systems."

Comment: The Board suggests changing the words in the second sentence above to say: "In this role, ICANN's scope includes both the allocation and assignment of names in the root zone as well as the coordination of the development and implementation of domain name policies:" The CCWG and ICANN lawyers should be instructed to ensure that in drafting the relevant Bylaw they consider the full scope of domain name policy making authority within the GNSO and the ccNSO, so that the resulting language does not limit the scope of

appropriate policies that could be put in place today.

Paragraph 2 - CCWG Current Proposal
Proposed CCWG language – "Coordinates the operation and evolution of the DNS root name server system. In this role, ICANN's Mission is to be provided by root server operators."

Comment: The Board suggests no change to the first sentence. As additional language is proposed on this point, the Board looks forward to language addressing both the scope of ICANN's operational role in this coordination work as well as in considering inputs from the communities dependent on the root server system.

Paragraph 3 - CCWG Current Proposal
Proposed CCWG language – "Coordinates the allocation and assignment at the top-most level of Internet Protocol ("IP") and Autonomous System ("AS") numbers. ICANN's Mission is described in the ASO MoU between ICANN and RIRs."

Comment: The Board recommends modifying the first sentence to include "and ratifies, at the global level, policies developed that are reasonably and appropriately related to these IP and AS numbers." The Board suggests removing the second sentence as the reference to the ASO MoU and the RIRs is already contained within Article VIII of the bylaws.

Paragraph 4 - CCWG Current Proposal
Proposed CCWG language – "Collaborates with other bodies as appropriate to publish core registries needed for the functioning of the Internet. In this role, with respect to protocol ports and parameters, ICANN's Mission is to provide registration services and open access for registries in the public domain requested by Internet protocol development organizations, such as the Internet Engineering Task Force."

Comment: Change ICANN's Mission to "ICANN's scope." The Board accepts the input from the IETF/IAB in respect to the publication of

protocol parameters. The Board suggests deleting the last clause to remove reference to another organization.

CCWG statement in the 15 November Formal Update Document

Proposed CCWG language – "The Mission Statement further clarifies that ICANN shall act strictly in accordance with, and only as reasonably appropriate to achieve its Mission.

Without in any way limiting the foregoing absolute prohibition, ICANN shall not regulate services that use the Internet's unique identifiers, or the content that such services carry or provide. ICANN shall have the ability to enforce agreements with contracted parties, subject to established means of community input on those agreements and reasonable checks and balances on its ability to impose obligations exceeding ICANN's Mission on registries and registrars."

CCWG statement as revised on 17 November call (draft):

"ICANN shall not impose regulations on services (i.e., any software process that accepts connections for the Internet) that use the Internet's unique identifiers, or the content that such services carry or provide - ICANN shall have the ability to negotiate, enter into and enforce agreements with contracted parties in service of its mission."

Comment: The ICANN Board agrees in principle with the inclusion of the first sentence as proposed in the 15 November update document. However, ICANN requires the ability to engage with other parts of the Internet community to allow for ICANN to remain within its scope of responsibilities and in service to its Mission so that requirement must fall within this scope definition.

On the 17 November draft paragraph, the ICANN Board does not understand what the CCWG is trying to achieve with this language. The Board asks that the CCWG provide some examples of what the CCWG believes that ICANN should and should not be able to do. That information can then be provided to counsel to see if text can be drafted to address the broader concerns. In the Board's view, in its current form, this paragraph is unacceptable for inclusion in the

Bylaws. It is unclear and could result in unintended consequences to ICANN's operations, commitments and responsibilities. Some examples of the concerns that the Board has with this language include:

- Some existing registry agreements may be out of compliance with ICANN's responsibilities if this change is adopted.
- The use of the word regulate as traditionally used in the laws that govern ICANN is out of context for the intended meaning and may present risks for ICANN.
- The attempts at defining "services" is unclear and very technology-specific, and could become outdated quickly.

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