

Comment from the Just Net Coalition

Please find below a comment from the Just Net Coalition. The Coalition's web site is at:

<http://www.justnetcoalition.org/>

Best,
Richard Hill, for the Just Net Coalition

=====

Comment from the Just Net Coalition

We refer to the CCWG-Accountability - Draft Proposal on Work Stream 1 Recommendations, published at:

<https://www.icann.org/en/system/files/files/draft-ccwg-accountability-proposal-work-stream-1-recs-30nov15-en.pdf>

Paragraph 58 of that proposal shows that the "empowered community" would consist of 5 organizations: ALAC, ASO, GNSO, ccNSO, and GAC. Each of these organizations is an organic component of ICANN, and the majority of them represent the domain name and addressing industries.

Thus, the proposal does not provide for any external accountability or supervision of ICANN: ICANN would be accountable only to entities that are part of ICANN.

In March 2014, NTIA announced that it intended "to transition key Internet domain name functions to the global multistakeholder community", see:

<https://www.ntia.doc.gov/press-release/2014/ntia-announces-intent-transition-key-internet-domain-name-functions>

An entity (the "empowered community") that consists of organizations that are organic components of ICANN is obviously not "the global multistakeholder community", nor can it be construed to be representative of that community when 3 out of 5 of the cited organizations represent the domain name and addressing industries.

Consequently, the proposal manifestly fails to meet the main objective enunciated by NTIA, namely that ICANN should be accountable to a the broad global multistakeholder community. Therefore, we oppose the recommendations contained in the proposal.

We reiterate our proposal to turn ICANN into a proper membership organization, see:

<http://forum.icann.org/lists/icg-forum/pdfXXrCnTxCwW.pdf>

Alternatively, it could be envisaged to put ICANN under some public oversight, involving a representative structure of constituencies outside ICANN, one possibility of which is proposed in 3 of our roadmap submission to Netmundial, see:

<http://justnetcoalition.org/2014/to NetMundial roadmap.pdf>

While the removal of the unilateral role of the US government is otherwise welcome and long overdue, the present structure could in fact be worse than the earlier one to the extent that it violates the principle of democratic governance, and in particular the key political and public administration principle of separation of powers and instituting checks and balances in that we now have a kind of sovereign body with no outside checks or accountability. This is not acceptable.

Further, we note that the recommendations of CCWG-Accountability did not achieve consensus even within that group, see:

<https://www.icann.org/en/system/files/files/draft-ccwg-accountability-proposal-appendix-a-02dec15-en.pdf>

More importantly, the process was vitiated, in that time and again there were proposals, adopted by so-called consensus, that were subsequently rejected and revised due to pressure from either the ICANN Board or the US government. This influence was exercised with respect to very fundamental elements of the proposal (such as oversight of the ICANN Board), and the result of the pressure was that the proposal was quickly reworked in the directions asked for. Consequently, this was not a bottom-up community driven proposal. On the contrary, it was a proposal driven by either raised eyebrows, or by explicit directions, by those who hold all the power currently.

Furthermore, JNC insists that the oversight and accountability mechanisms must be strengthened in particular in relation to any decisions that would result in the deletion or forced redelegation of top-level domain names. We insist that any such decisions by the ICANN board must at least be subjected to the same community powers as decisions to propose an operating plan, strategic plan or budget. This should apply not only to decisions to delete a TLD or redelegate it without the consent of the previous assignee, but also to decisions to impose rules on TLD registry operators that impose obligations in relation to second level domain names.