

**Comments on the “Third Draft Proposal of the Cross Community Working Group on
Enhancing ICANN Accountability (CCWG Accountability), Work Stream 1
Recommendations”**

- December 21, 2015

Renu Sirothiya ¹

With appreciation for hardwork of the CCWG Accountability and sincere thanks for the opportunity of comments, following brief points are considerably submitted apropos the third iteration of the proposal:

1. Proposition of empowering the multi-stakeholder community is a constructive step.
2. As far as the ‘sole designator model’ for empowering the community is concerned, given its resonance to the current ICANN structure, it may become a means to secure ICANN’s organizational transformation for enhanced accountability, without leading to much upheaval. However, further deliberation and discourse is required on legalities and potentialities thereof. And for chasing the timelines, this need of comprehensive analysis of the plausible implications of the ‘sole designator model’ must not be overlooked.
3. With respect to the new ‘Triple E Consensus Model’, prima facie it appears a positive sign that under the ‘Engage, Escalate and Enforce’ approach, there is a scope of dispute resolution through dialogue and negotiations. However, this recourse model is likely to have associated time constraints and operational inconveniences, and therefore it must co-exist with other expedient alternatives.
4. With respect to the extent of empowerment of various stakeholder groups, it is noted that ideally no stakeholder group should have powers overshadowing the powers of other groups, but for practical rationale of sovereign responsibilities of the governments, the body representing them must have strengthened position. Thus, the proposed position and powers of the Government Advisory Committee (GAC) seem acceptable.

Though GAC must have strong voice, yet not to the extent of capturing the decisions, and not to the level of defeating NTIA criteria of transition. Accordingly, the proposed Stress Test 18 (ST-18) that provides for the mechanism to simultaneously maintain the GAC’s autonomy, as well as the scope of overruling of the GAC advice by the Board in required cases, appears appropriate.

¹ New Delhi based Law and Policy Researcher and Consultant. Observations and views are personal. No affiliation or representation shall be construed

At the same time, as the ST-18 provides for the Board's obligations in following GAC consensus advice, or, attempting to find a mutually acceptable solution to advice which the Board rejects by a two-thirds majority, it may prove good means of check and balance.

5. With respect to ambit of powers, it appears that powers of recalling entire board, and triggering the separation of post transition IANA (PTI), are extreme in nature. As these powers may affect stability of the board, hence there is a requirement of earmarking clear scenarios of exercise of such powers.
6. Moreover, as an accountable organization ICANN's mission, commitments and core values should be clear and defined, and realm of its activities must be guided by that fundamental framework. Need of the hour is precisely drafted and defined 'Fundamental Bylaws'. It is hoped that any Bylaws' development and amendment processes will be meticulous, as well as open and transparent, and there will be adequate time for comments on the draft versions.
7. Besides, there is also a need of an unambiguous framework of 'ICANN's role in relation to human rights', however that may be part of Work Stream 2 (WS2).
8. In WS2 there may also be discussion on definition of global public interest; ICANN's transparency and corresponding inspection rights; accountability of the representatives of the supporting organization and advisory committees; accountability of the staff; jurisdiction issues and diversity aspects.

Looking forward for consideration of these viewpoints.

Renu Sirothiya
New Delhi