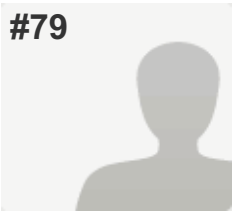


#79



**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, December 21, 2015 4:09:59 PM  
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PAGE 2: Personal Information

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Q1: Name	Adam Coughlin
Q2: Affiliation	Corporate Spokesperson
Q3: Responding on behalf of	Dyn

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PAGE 3: Recommendation 1

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**Q4: Is establishing an Empowered Community for enforcing Community Powers a solution that is acceptable to you?(Please see Annex 1 - Recommendation #1: Establishing An Empowered Community For Enforcing Community Powers for more information)**

Yes, I support this recommendation.,

Comment

This mechanism is somewhat more complicated than ideal, because of the way it needs to work under California law. It provides a slightly awkward wrinkle in that board members will actually be appointed by the Sole Designator, rather than the body (the SO/AC or the nomcom) that makes the selection. There is the logical possibility that the Sole Designator could refuse to comply with the instructions of an SO or AC or from the nomcom; we think this risk is in practical terms very low because of the way the Sole Designator is constituted. Dyn's response to the CCWG second draft had as its central objection that the Sole Member model needed to be perfect in its initial implementation. The Sole Designator model shares the flaw that there will be a structural barrier to reform. Because the Sole Designator must approve any fundamental bylaw change, if the design of the Sole Designator is wrong in serious ways that give the participants outsized power, it will be hard to fix. On balance, however, Dyn believes that the rest of the proposal offers enough different ways of participating that this flaw is acceptably mitigated.

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PAGE 4: Recommendation 2

**Q5: Is empowering the community through consensus: engage, escalate, enforce a solution that is acceptable to you?(Please see Annex 02 - Recommendation #2: Empowering The Community Through Consensus: Engage, Escalate, Enforce for more information)**

Yes, I support this recommendation.,

Comment

The Engage, Escalate, Enforce approach to consensus provides a series of escalating steps in which consensus can be determined. It emphasises discussion and working problems out over fast recourse to legal remedies for disputes. For that reason, it is a great improvement over the previous drafts. Dyn continues to worry about the emphasis on ICANN constituency groups. These can be difficult for people outside the usual ICANN participants, so there might be a complaint that ICANN's version of "the community" and that on the Internet are at odds. Given all the other constraints, however, this compromise seems acceptable.

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PAGE 5: Recommendation 3

**Q6: Is redefining ICANN's Bylaws as 'Standard Bylaws' and 'Fundamental Bylaws' a solution that is acceptable to you?(Please see Annex 03 - Recommendation #3: Redefining ICANN's Bylaws As 'Standard Bylaws' And 'Fundamental Bylaws' for more information)**

Yes, I support this recommendation.

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PAGE 6: Recommendation 4

**Q7: Is ensuring community involvement in ICANN decision-making: seven new Community Powers a solution that is acceptable to you? (Please refer to Annex 04: Details on Recommendation 4: Ensuring Community Involvement In ICANN Decision-Making: Seven New Community Powers for more information)**

Yes, I support this recommendation.,

Comment

The text of the document is somewhat confusing here, because it occasionally mentions five powers, rather than the seven actually up for consideration. It would be nice to fix this before final publication.

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PAGE 7: Recommendation 5

**Q8: Is changing aspects of ICANN's Mission, Commitments and Core Values a solution that is acceptable to you?(Please refer to Annex 05 - Details on Recommendation #5: Changing Aspects Of ICANN's Mission, Commitments And Core Values for more information)**

Yes, I support this recommendation.,

Comment

In Dyn's response to the second draft, we observed that the mission there proposed was rather broader than ICANN's real work. The new text is an improvement. It is slightly surprising to see ICANN's mission refer to an agreement that ICANN has with another organization. Dyn does not object, but also would not object to a modification in which the reference were turned into something self-contained. In general, Dyn is extremely supportive of text that reinforces ICANN's important but limited mission and responsibilities.

PAGE 8: Recommendation 6

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**Q9: Is reaffirming ICANN's commitment to respect internationally recognized human rights as it carries out its Mission a solution that is acceptable to you?(Please refer to Annex 06 - Recommendation #6: Reaffirming ICANN's Commitment to Respect Internationally Recognized Human Rights as it Carries Out Its Mission for more information)**

Yes, I support this recommendation.,

Comment

Dyn's support of this recommendation is really a compromise. We are aware that this reaffirmation is important to a lot of people, and therefore we will not object to its inclusion. At the same time, we think the inclusion of human rights language in the bylaws is not wise. Annex 06 goes out of its way to make clear that the provision "does not in any way create an obligation for ICANN." If that is true, then there seems to be no reason to include the provision in the bylaws at all. There is a risk that the text will sit there, inert, until someone decides to try to use it to achieve some end. It seems needlessly risky to include text that is not supposed to have any effect. This is doubly so in the case of a provision for which all the implications are not understood or, in this case, even written. Moreover, normally it is not private corporations, but governments, that have obligations under human rights provisions. It is hard to understand how these obligations could apply to ICANN. We believe that the language is either inoperative if, as the text says, it creates no new obligations for ICANN; or else, it has implications that are not understood and that may present a problem in the future. Despite Dyn's belief that human rights are extremely important, we think that the draft report would be stronger were the human rights language absent.

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PAGE 9: Recommendation 7

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**Q10: Is strengthening ICANN's Independent Review Process a solution that is acceptable to you?(Please refer to Annex 07: Recommendation 7: Strengthening ICANN's Independent Review Process for more information)**

Yes, I support this recommendation.,

Comment

Dyn is slightly worried that the qualified population for the standing panel, when both legal and technical strength is taken into account, will be very small. As long as panellists can get the technical support they need, this is a surmountable risk.

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PAGE 10: Recommendation 8

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**Q11: Is fortifying ICANN's request for reconsideration process a solution that is acceptable to you?(Please refer to Annex 08 - Recommendation #8: Improving ICANN's Request For Reconsideration Process for more information)**

Yes, I support this recommendation.

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PAGE 11: Recommendation 9

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**Q12: Is incorporation of the Affirmation of Commitments a solution that is acceptable to you?(Please refer to Annex 09 - Recommendation #9: Incorporation of the Affirmation of Commitments for more information)**

Yes, I support this recommendation.

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PAGE 12: Recommendation 10

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**Q13: Is enhancing the accountability of Supporting Organizations and Advisory Committees a solution that is acceptable to you?(Please refer to Annex 10 - Recommendation #10: Enhancing the Accountability of Supporting Organizations and Advisory Committees for more information)**

Yes, I support this recommendation. ,

Comment

In its comment on the second draft, Dyn observed that there was a risk implicit in the proposal, because the accountability mechanism was to depend entirely on the accountability of the SOs and ACs, and that accountability was poorly understood. The gap in understanding remains, and it is still a concern. But, because of the gradual escalation process contemplated in recommendation 2 (and especially the way it works in public), we believe the accountability of the SOs and ACs is less pressing than it was in the previous proposal.

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PAGE 13: Recommendation 11

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**Q14: Is Board obligations regarding GAC Advice (Stress Test 18) a solution that is acceptable to you?(Please refer to Annex 11 - Recommendation #11: Board obligations regarding GAC Advice)**

Yes, I support this recommendation. ,

Comment

Dyn believes that the NTIA's criterion that ensures accountability will not move to a government or inter-governmental agency needs to be respected in spirit as well as in fact. The CCWG's recommendation 11, taken together with the rest of the proposal, achieves the goal and prevents undue GAC influence on the process.

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PAGE 14: Recommendation 12

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**Q15: Is committing to further accountability work in Work Stream 2 a solution that is acceptable to you? (Please refer to Annex 12 - Recommendation #12: Committing to further accountability work in Work Stream 2)**

Yes, I support this recommendation. ,

Comment

It would, obviously, be preferable if everything were already complete. There remains a distressing number of details to be worked out in the implementation of the proposal. But some items can indeed wait, and the proposal to ensure that those items get completed seems adequate to the purpose.

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**Q16: Please submit comments you have in addition to the information provided above, including on NTIA criteria, CWG-Stewardship requirements and Stress Tests.**

Dyn congratulates the CCWG on the work that it has undertaken. It is a testament to the strength of the multi-stakeholder processes that so much progress has been made in such a short time. We thank the members and participants for their work.

In general, Dyn is supportive of the third draft report. There is nothing in it that makes us say we cannot support the report, and many items that are clear improvements over the state of affairs today.

We remain somewhat worried about the number of details that remain to work out. Several sections of the report contain draft text or items that remain to be finalized during implementation. There is some risk in that, and we would prefer a proposal where the details were somewhat more complete. But we do not think this to be a fatal flaw, and we support the accountability changes proceeding in order to achieve the important transition of the stewardship.

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