**Registrar Stakeholder Group Comments on
CCWG-Accountability Draft Proposal on Work Stream 1 Recommendations**

21 December 2015

The ICANN GNSO Registrar Stakeholder Group (RrSG) extends its appreciation and gratitude to the many volunteers and staff who contributed to the CCWG-Accountability Draft Proposal on Work Stream 1 Recommendations dated 30 November 2015.   The RrSG notes and endorses with general approval the comments submitted by the Registries Stakeholder Group (RySG) and dated 18 December 2015.

The RrSG has particular concerns in the following areas:

1. Stress Test 18 and ICANN Board Rejection of GAC Advice

The RrSG cannot support the proposal of a 2/3 Board majority to reject GAC Advice, and will reject the proposal should this voting threshold remain.   The CCWG Draft proposes no additional clear definitions or limitations of what should be deemed properly-constituted "GAC Advice". It is our present understanding that "GAC Advice" as itself defined by the GAC does not require an affirmative consensus within the GAC, and that the GAC utilizes a "lack of formal objection" model of proposing "GAC Advice".   While the GAC is within its competence to determine its internal operating procedures, the community as a whole should not impose an exceptional standard on the outcomes of the GAC's internal position-development procedures.

The RrSG notes with approval several proposed limitations put forward in the RySG comments that properly-constituted GAC Advice be required to include a rationale, be consistent with ICANN by-laws, be within a defined scope of interests, and be approved by affirmative agreement. However, the RrSG does not believe the CCWG-Accountability process is an appropriate vehicle for unbalancing the extensively discussed similar proposal which was rejected in the previous revisions to the ICANN By-Laws.

Accordingly, the RrSG believes the better course here is to eliminate the 2/3 threshold requirement, and to exclude abstentions of Board Member(s) from the tally of votes in affirmance or objection to GAC Advice.

2. Draft Interim By-Law Respecting Human Rights

The RrSG believes that, in the absence of any demonstrable issue that is sought to be addressed, and the upcoming discussion of the subject in Workstream 2 of the CCWG-Accountability process, that the proposed "interim" By-Law provision is premature.   For example, by its own terms, the proposed language emphasizing it "does not create any <u>additional</u> obligation for ICANN" raises a question of what is the <u>present</u> obligation of ICANN to enforce human rights, in preference to other fora. The RrSG generally believes this important topic would benefit from a more fulsome discussion and resolution in Workstream 2.

3. Recommendation #7 - Independent Review Process

The definition of causes of action within the scope of the IRP as "an action/failure to act complied or did not comply with ICANN's Articles of Incorporation and/or Bylaws" should be more clearly defined to exclude the <u>adoption</u> of a policy within the regular operation of the Policy Development Process, as distinguished from the <u>application</u> of that Policy to a party in particular.   The RrSG is concerned that the IRP is increasingly viewed as a vehicle to route around the development and adoption of policy within the regular operation of ICANN's policy making mechanisms.   An initial step in the consideration of any IRP complaint should be to first determine whether the complaining party is affected by a specific "action/inaction" in the course of application of a consensus policy to that party, and not that the party would be hypothetically impacted by prospective application of a policy that has been duly adopted in the absence of demonstrated procedural irregularities.

4. Conclusion

The expression of the above-noted concerns is reflective of the RrSG as a stakeholder group, and is not to be construed as the position of any particular member of the RrSG nor of any ICANN accredited registrar who may submit individual comments on the subject hereof.