Private Comments on new Bylaws

- *To*: comments-draft-new-bylaws-21apr16@xxxxxxxxx
- *Subject*: Private Comments on new Bylaws
- *From*: Klaus Stoll <kdrstoll@xxxxxxxxx>
- *Date*: Mon, 16 May 2016 03:35:51 -0400

Thank you for the opportunity to comment on the Bylaws. In general I want to
state that the new Bylaws are to a large extend represent the outcomes of the
ICG and CCWG-Accountability and the drafters should be commented for this.

Please allow me to make some more general and personal comments that address
issues that are common to nearly all sections of the Bylaws. I apologize in
advance for mentioning these topics again and again, but the consistent
failure of the ICANN community to address these important issues make it
necessary until they are adequately addressed.

Yours

Klaus Stoll

Section 1.2.COMMITMENTS AND CORE VALUES , (iv) + (iv)

/Employ open, transparent and bottom up, multistakeholder policy development
processes that are led by the private sector (including business
stakeholders, civil society, the technical community, academia,and end
users), while duly taking into account the public policy advice of
governments and public authorities./

I note that the "academia" is mentioned in both sections is the
only stakeholder group mentioned that does not have its own stakeholder
group for representation. Do the Bylaws indicate a need for
specificrepresentation by academia?.

I note that the by-laws donot mention or address awareness and
capacity building and does not address the danger of a captured community
through under and miss-representation by specific interest in stakeholder
groups as the vast majority of Internet ecosystem citizens are not present
as engaged stakeholders.

For ICANN, the organization operating the DNS, the multistakeholder model of
governance is central to the stability and security of the global Internet.
For ICANN's governance to be robust and defensible, it needs broad and deep
stakeholder engagement within its "/open, transparent and bottom up,
multistakeholder policy development processes/" of Internet governance.

Given the financial Interests of ICANN contracted parties stakeholders and
non-contracted business interests, it comes as no surprise that they are
heavily and deeply represented as stakeholders in ICANN's policy making and
governance processes. It also comes as no surprise that the vast majority of
Internet ecosystem citizens, the Internet users, are not present as engaged
stakeholders within the ICANN community. Most individual citizens and groups

are focused on how they may use the Internet as a tool, but they do not focus on the Internet and its governance per se unless Internet policy impacts them directly. ICANN is in a situation where it professes participation by citizens in a multistakeholder model of engagement, but where 99% (literally all) of those "citizens" don't even know that this governance process exists.This creates the danger of capturing of stakeholder groups through under- and miss- representation and ultimately can undermine the spirit and intend of the Bylaws.

If ICANN cannot find practical ways to enable wider and deeper participation in ICANN, this will threaten the very legitimacy of ICANN's multistakeholder governance model. The main dangers are under and miss-representation. Under-representation, where stakeholder groups interests are not factored into governance and policy making at all levels and a disproportionate weight is exercised by those with a voice and who have direct pecuniary interests. Gross under representation of stakeholders leaves ICANN's governance and policy processes open to criticism that it is an inadequate multistakeholder process.

Miss-representation, where a thin representation of the large majority give disproportionate weight to the voice and positions of the few such stakeholders who claim to represent the vast number of unaware and unengaged citizens of the Internet ecosystem.

The by-laws should put a more strict emphasis on "/transparent and bottom up, multistakeholder policy development processes" also /within the ICANN stakeholder groups. Awareness and capacity building of allInternet end users, not just their mere representation through self-elected representatives, are the only way to ensure "/transparent and bottom up, multistakeholder policy development processes" /andavoids the danger of capture.

I am aware that this and other important topics like the role of ICANN staff, are envisaged to be addressed in Workstream 2, but it would have been helpful ifthe Bylaws would have laid a more solid foundation for the forthcoming discussions in Workstream 2, by putting more emphasis on the need for Awareness and Capacity building, and "/transparent and bottom up, multistakeholder policy development processes" /within the stakeholder groups.

Klaus Stoll