

Dear members of the IRP-IOT:

The first substantive issue we will address on today's call is with respect to Malcolm's request that ICANN staff be re-classified as staff support in the IOT rather than as full participant.

I thought it would be helpful to compile some of the comments on this issue that have come on list.

Malcolm's original request is [here](#).

That request was posted December 6th and you can see on the list the comments since then. Below I try to compile the gist of most of the comments to the request in excerpts hoping to catch the flavor of them. This is not perfect and so the list review would be best – these below are offered to try to help the discussion today.

OTHER POSTINGS (excerpts):

Becky:

Respectfully to all, and without opining on the substance of the repose issue, I am concerned that we may be imposing general assumptions about the role of staff in policy development on the work of the IRP Implementation Oversight Team without adequate consideration. The role of Org in this work - which is not traditional policy development - may be fundamentally different. According to the Bylaws, "An IRP Implementation Oversight Team shall be established in consultation with the Supporting Organizations and Advisory Committees and comprised of members of the global Internet community." As I recall, when we discussed this (now a long time ago) we collectively determined that it was in fact appropriate for someone from ICANN Legal to be an active part of the discussion. If we are going to revisit that, perhaps we should do that in a more formal way, in consultation with SOs and ACs, as specified in the bylaws.

Avri:

Hi,

This matches my recall and understanding.

I would add that I would think we would better spend our time trying to resolve the issue, option 2, than we would trying to remove people we disagree with from the IOT. [DMc note – option 2 refers to Time for Filing issue]

Mike Rodenbaugh:

It seems to me that "comprised of members of the Internet community" ought to exclude ICANN Staff and Board Members, and include literally everyone else in the world. Goran seems to have that interpretation.

Even if there was agreement to have an "active voice in the discussion", it appears more that the group has effectively been captured by ICANN, almost to the exclusion of anyone else's views. Perhaps that is largely because so few other people are participating at all in this effort. And, perhaps that is by ICANN design? It certainly could appear that way to a reasonable person.

Leon:

I agree and support Becky's suggestion. We have to consider the circumstances under which the IOT was formed. If I recall correctly, and please correct me if I'm wrong or stating erroneous facts, we formed this IOT granting active member status to ICANN legal staff because at that time we felt that both Org and the Board were not contributing in a timely and coordinated fashion. Hence we asked that they get involved in a deeper manner and granting them this status was our way to guarantee that they would be contributing in a pro-active fashion rather than a reactive one. Back then, the line dividing community and staff was well defined but tweaked by us, in agreement with Org, in order to fulfill the purposes of the IOT. At least that was my impression.

If the group now decides this determination should be revisited, I completely agree it could be done but I also agree that it would be a good practice to do so in a formal way in consultation with SO/ACs in order to do it in line with the bylaws.

Malcolm:

Becky, thank you for making this very important point.

The composition of this group is set out in the Bylaws. It is required to be "comprised of members of the global Internet community" - not "jointly of members of ICANN staff and of the global Internet community".

That is decisive and binding upon us.

Kavouss:

Dear Beckie

Active means to override and over representation?

I totally disagree

The staff shall remain in an advisory capacity providing views IF REQUESTED BY THE MEMBER and not beading the process Regards Kavouss

David:

Speaking as an IOT participant (and speaking personally here), I will be interested to hear ICANN Org's thoughts on this given the discussion of what Göran said/meant in response to an "impromptu question."

I have to say I find it surprising that members believe that procedural rules for a formal dispute resolution mechanism can be drawn up by the claimant side of the bar, to the complete exclusion of meaningful participation by the respondent side of the bar (ICANN alone is guaranteed a seat as respondent in each and every IRP), and think that such rules pass muster under the bylaws requirement of fundamental fairness and due process.

And I am surprised as well that the composition of the IOT as directed by bylaws – i.e. comprised of members of the global Internet community - could exclude ICANN in a participatory role especially when read in connection with other bylaw provisions such as the one I noted above, and in view of this common practice over many years. ICANN appears to me to qualify as a member of the global Internet community, and I look forward to the discussion next Thursday.

Chris:

Hi David , All,

I echo your points below and also those made separately by Avri, Becky and León.

Best regards,
David

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