

At-Large Draft New ICANN Bylaws Workspace

Comment Close Date	Statement Name	Status	Assignee (s)	Call for Comments Open	Call for Comments Close	Vote Open	Vote Close	Date of Submission	Staff Contact and Email	Statement Number
21 May 2016	Draft New ICANN Bylaws <ul style="list-style-type: none"> • Español • Français • Português • P 	ADOPTED - by consensus NOTE: Alan Greenberg submitted the following comments on his own behalf. The comments have been reviewed by the ALAC and are now both endorsed by a consensus decision of the ALAC. The first was approved without any dissent, and the second with just one ALAC member not supporting it.	Alan Greenberg	16 May 2016	21 May 2016	n/a	n/a	21 May 2016	Samantha Eisner, Associate General Counsel samantha.eisner@icann.org	TBC

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Brief Overview

Purpose: This Public Comment period seeks community input on the Draft New ICANN Bylaws developed to reflect the recommendations contained in the proposals by the IANA Stewardship Transition Coordination Group (ICG) and Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability) as provided to the ICANN Board on 10 March 2016 and transmitted to NTIA. (See Resolutions [2016.03.10.12-15](#) and [2016.03.10.16-19](#))

Current Status: The new ICANN Bylaws have been drafted in collaboration by the ICANN legal team and the external counsels to the CCWG-Accountability and Cross Community Working Group Names (CWG-Stewardship), including review periods by all of the involved community groups and the ICANN Board. The legal teams support that the Draft New ICANN Bylaws are consistent with the community proposals relating to the IANA Stewardship Transition

Next Steps: The Draft New ICANN Bylaws are out for a 30-day public comment from 21 April – 21 May to allow any interested party to review and provide feedback on the Bylaws. This timeline allows for comments to be analyzed and incorporated in time for the ICANN Board to consider adoption of the New ICANN Bylaws on or about 27 May 2016 adoption of the Bylaws by the ICANN Board. Once New ICANN Bylaws have been adopted, ICANN will notify NTIA. NTIA has stated that it needs to see that changes to the Bylaws have been adopted sufficient to implement the Transition Proposals before NTIA can complete its review of the Transition Proposals. Once adopted, the Bylaws are expected to be in effect in the event NTIA approves of the IANA Stewardship Transition Proposal and the IANA Functions Contract expires.

Section I: Description, Explanation, and Purpose

The Draft New ICANN Bylaws were drafted in order to reflect the changes necessary as a result of the recommendations contained in the proposals by the IANA Stewardship Transition Coordination Group (ICG) and Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability) as provided to the ICANN Board on 10 March 2016 and transmitted to NTIA. Taken together, the proposals call for significant governance changes within ICANN, such as the development of new community powers, the incorporation of the reviews currently required under the Affirmation of Commitments, and modifications to key accountability mechanisms such as the Independent Review Process and the Reconsideration Process.

The ICG and CCWG-Proposals were developed through public processes, including multiple opportunities for public comment. The New Draft ICANN Bylaws are just part of how ICANN is planning to implement these publicly-supported proposals. The full scope of implementation planning efforts can be tracked at <https://www.icann.org/stewardship-implementation>.

Because these Draft New ICANN Bylaws are drafted to the publicly vetted proposals, this comment period is designed to solicit inputs from the broader community on how those proposals were brought into the Bylaws and if there are areas seen as inconsistent with the IANA Stewardship Proposal package. Of note, counsel for the CWG-Stewardship and CCWG-Accountability have already confirmed that the Draft New ICANN Bylaws are consistent with the community proposals relating to the IANA Stewardship Transition, and ICANN's General Counsel has confirmed the same. This public comment period is not intended to be a forum for the reconsideration of those transition-related proposals. The drafters also avoided making other clean-up edits that were not called for within the proposals.

ICANN's longstanding practice is to place proposed Bylaws amendments out for public comment.

Section II: Background

The IANA Stewardship Transition

For almost two decades, ICANN has performed the IANA functions under a zero-dollar contract with the U.S. Government, implementing policies developed by the multistakeholder community. The U.S. Government always envisioned its role as steward of the IANA functions as temporary, and, in March 2014, [announced](#) its intention to transition that stewardship to the global multistakeholder community. This transition will not affect how the identifiers are coordinated nor will it affect the functionality of the Internet or our ability to access it. In fact, the transition is nothing more than the final step in an 18-year process to privatize the management of the IANA functions.

The National Telecommunications and Information Administration (NTIA) asked ICANN to convene an inclusive, global discussion that involved the full range of stakeholders to collectively develop a proposal for the transition. NTIA stated that the transition proposal must have broad community support and meet the following criteria:

- Support and enhance the multistakeholder model;
- Maintain the security, stability, and resiliency of the Internet DNS;
- Meet the needs and expectations of the global customers and partners of the IANA services; and,
- Maintain the openness of the Internet.

NTIA also specified that it would not accept a proposal that replaces NTIA's role with a government-led or intergovernmental organization solution.

Developing the Community Proposals

Two sets of recommendations comprise the package provided to the ICANN Board for the IANA Stewardship Transition. One set of recommendations involved the proposal from the direct operational customers of the IANA functions. This proposal was prepared by the IANA Stewardship Transition Coordination Group (ICG). The ICG, comprised of thirty individuals, representing the broad range of Internet stakeholder interests, were nominated by their respective communities. The ICG assembled input from three global multistakeholder communities with direct operational relationships with the IANA functions to develop a proposal to transition NTIA's stewardship of the IANA functions.

- Read the final ICG proposal [here](#) [PDF, 2.32 MB].

The other set of recommendations related to enhancing ICANN Accountability in relation to the IANA Stewardship Transition. This proposal was prepared by the Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability), made up of members from ICANN's Supporting Organizations and Advisory Committees, and over 200 participants, developed a separate proposal for enhancing ICANN's accountability in light of the changing historical relationship with the U.S. Government. Together with ICANN's existing structures, the group recommended mechanisms to ensure ICANN remains accountable to the global Internet community.

- Read the final CCWG-Accountability proposal [here](#) [PDF, 6.03 MB].

Delivering the Proposals

On March 10, 2016, the ICANN Board of Directors [transmitted](#) the IANA Stewardship Transition and Accountability Proposals to NTIA for its review and approval. NTIA has stated that the U.S. Government need to see adoption of any changes to ICANN's Bylaws before they can complete their anticipated 90-day review of the proposals.

Over the next several months, Congress will also carefully review the proposals. Once these reviews are completed and with NTIA approval, ICANN will implement the community-developed proposals.

For further information on the process, please see: <https://www.icann.org/stewardship-accountability>

Section III: Relevant Resources

- [Draft New ICANN Bylaws](#) [PDF, 1.37 MB]
- [ICANN's Current Bylaws](#)
- [Comparison of Draft New ICANN Bylaws to Current Bylaws](#) [PDF, 2.62 MB]
- [IANA Stewardship Transition Implementation Website](#)
- [ICG Proposal](#) [PDF, 2.32 MB]
- [CCWG-Accountability Proposal](#) [PDF, 6.03 MB]

Section IV: Additional Information

Section V: Reports

Staff Contact

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FINAL VERSION TO BE SUBMITTED IF APPROVED BY CONSENSUS

<https://forum.icann.org/lists/comments-draft-new-bylaws-21apr16/msg00020.html>

FINAL DRAFT VERSION TO BE REVIEWED BY THE ALAC

<http://atlarge-lists.icann.org/pipermail/alach/2016-May/009345.html>

FIRST DRAFT SUBMITTED

<https://atlarge-lists.icann.org/mailman/private/alach-excom/2016-May/006229.html>