

CCWG Accountability

Mailing List Discussions

Week: 30 January – 5 February 2015

CCWG accountability ([archives](#))

- **Affirmation of Commitments (AoC)**
 - Group members discussed measures to solve for potential termination of Affirmation of Commitments. A suggestion was made to consider persistent rights for NTIA post transition. Another suggestion proposed replacing AoC with an accountability contract between ICANN and 'Contract Co.'
 - Migrating the AoC provisions to the ICANN Bylaws is the preferred way forward. The following suggested amendments were put forward: ICANN Members or permanent Cross-Community Working Group to select review teams; review teams to get access to all internal documents; potential creation of new reviews; change reviews from "in the public interest" to "for protection and advance of human rights and internet freedoms".
- **Standing Panel & Independent Review Process**
 - Contributors observed that a [Bylaws](#) provision calling for a standing panel was not implemented and raised concern as to implementation of potential WS 1 measures and general enforcement of bylaws. A comment was made that there was no Board decision not to establish the panel.
 - A reference was made to the [Accountability Structures Expert Panel Report](#) (ASEP) recommendations.
 - The linkage between standing panel and IRP was flagged as an item that would require discussion.
 - A list of [ASEP recommendations](#) was provided. These include issues listed under categories of reconsideration and Independent Review.
- **Affordability**
 - Affordability of the IRP was flagged as problematic: access to IRP is currently denied to those without extensive resources and therefore limits ICANN's accountability for its actions.
 - The CCWG was invited to consider funding mechanisms where a bottom-up community process is used to formally file an objection under an accountability mechanism while noting that a reasonable threshold is needed.
- **Work Party 1 and 2**
 - Two new work groups created: Work Party 1 [Community Empowerment](#) and Work Party 2 [Review & Redress](#)

- A [wiki page](#) was set-up to list requirements of WP1 and WP2 that had been mentioned on the CCWG accountability list. The list was intended to ensure there was a clear distinction between the scope of the two work parties, however further discussion suggested a blurring and overlap of issues.
- **Membership Structure**
 - It was called to the group's attention that members of a California public benefits corporation are entitled to file derivative actions against the Board and Board members thereof for fraud and other egregious actions contrary to the best interests of the corporation.
- **Community Veto**
 - The proposal suggests amending existing bylaws and/or articles of incorporation to create a new mechanism that empowers the Community to overturn board decisions on a limited number of issues and also to recall nonperforming board members. This community veto process would be designed in a way that a decision to over-rule the Board is determined via aggregation of decisions of the existing ICANN community structures. The Ombudsman (or neutral 3rd-party) could act as the facilitator in a purely administrative role. In this model, the Board would be required to adopt this decision of the community unless it is voted (unanimous or super-majority) to reject the decision of the community. Coupled with another bylaws revision providing for the ability of the community to recall recalcitrant Board members, it would be difficult for the Board to disregard community decision on a few specific matters.
 - There was a call for a definition of "relevant community" with a note that IANA customers and other important actors be considered.
 - The ability of the community to recall recalcitrant Board members should be viewed separately in this model.
 - It was suggested that a removal of single Board members be considered, involving processes within NomCom and selecting SO/ACs. Contributors touched on removal of the entire board though removal of the Chair by a community, need for Board members to serve public interest while noting its inherent diversity of interests and need for representation of all viewpoints, as well as need for a level of consensus wide consensus.
- **Timeframe**
 - Contributors raised concerns about how the timeline for Bylaws amendments will fit with process requirements.
- **Voting**
 - [Information](#) on the community reexamination of vote proposal that arose out of the 2009 President's Strategy Committee work on Improving Institutional Confidence was shared on the list.