

# ACCOUNTABILITY MECHANISMS

<b>Description</b>	Name of Mechanism	1B. Board or management action in conflict with ICANN's bylaws or Articles of Incorporation
	Description	Power for community representatives to challenge and ultimately block actions of the ICANN Board or management that are in conflict with ICANN's bylaws or AoI
	Category (check & balance, review, redress)	Check & balance
	Is the mechanism triggered or non triggered ?	Non triggered (process driven, not incident driven) <i>(Remark RM: questionable, one could argue it is triggered, incident driven)</i>
	Possible outcomes (approval, re-do, amendment of decision, etc.)	Independent review, possibly followed by: Amendment of decision of ICANN board/management
<b>Standing</b>	Conditions of standing (ie « last resort », type of decision being challenged, ...)	1 <sup>st</sup> step: independent review Last resort: blocking decision of ICANN Board/management
	Who has standing (directly or indirectly affected party, thresholds...)	Stakeholders, global internet community
<b>Standard of review</b>	Which standards is the decision examined against (process, principles, other standards...)	ICANN bylaws, ICANN Articles of Incorporation
	Which purpose(s) of accountability does the mechanism contribute to ?	Comply with its own rules and processes
<b>Composition</b>	Required skillset	Skill to understand legal language Skill to assess actions against bylaws and articles of incorporation
	Diversity requirements (geography, stakeholder interests, gender, other...)	Adequate stakeholder representation <i>Remark RM: this is where it becomes obvious that the template was not made for "powers", but for "mechanisms", as distinguished in our doc "Scope, Powers and Mechanisms Working Paper"</i>
	Number of persons (approximate or	Adequate stakeholder representation

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	interval)	
	Independence requirements	Adequate stakeholder representation will ensure independence of the group, though –possibly- there will be dependencies for one or more individual stakeholders
	Election / appointment by whom ?	Remark RM: again, this is where it becomes obvious that the template was not made for “powers”, but for “mechanisms”
	Recall or other accountability mechanism	See above
<b>Decision making</b>	Is the decision mandated or based on personal assessment	Not sure I understand the distinction here. There two options as far as I am concerned: <ol style="list-style-type: none"> <li>1. The community representatives have to get back to their constituencies and get their (consensus) approval to block the board’s decision (not workable: will take too long with the risk of failing altogether)</li> <li>2. The community representatives have the mandate from their respective constituencies to take a position based on their personal assessment of the action/decision against the bylaws and articles of incorporation</li> </ol>
	Decision made by consensus or vote ?	Vote. Consensus introduces (or reinforces) the risk of capture: if a particular stakeholder group has convinced the ICANN board to take a certain action against the bylaws/Aol, this same stakeholder group can then prevent the community from blocking that action/decision
	Majority threshold (if applicable)	Supermajority
<b>Accessibility</b>	Cost requirements	Remark RM: again, this is where it becomes obvious that the template was not made for “powers”, but for “mechanisms”. The power has little or no costs (except possibly the costs of independent review and legal advice)
	Timeframe requirements	Depending on the activity that violates the bylaws/Aol, this could be an urgent matter and (almost immediate stop necessary. My personal assessment: process should be given 2 weeks max for urgent matters, non-urgent 3 months max
	Language requirements	As regular
<b>Implementation</b>	Potential means to implement	<ul style="list-style-type: none"> <li>• An amendment to ICANN’s bylaws that gives the (group of) community representatives this power</li> <li>• A mechanism (SO/AC structure, P-CCWG, statutory delegates, statutory members, supervisory board) to delegate this power to</li> </ul>