

Questions and Answers on the Empowered SO/AC Hybrid

This is a drafting document to collate some questions and draft some answers on the model that emerged from the Friday 19 June CCWG meeting. It has no standing but is intended to be shared with the CCWG for discussion and debate.

- Questions tagged with FAQ are ones that we feel should be included in a FAQ for the community and for the public at large to gain additional information about the models.
- Questions tagged with Gov are questions we feel are of particular interest to Governmental and Political observers.
- Questions tagged with Lawyers are questions we feel our legal counsel should consider responding to as part of their construction of the various options.

Balance of powers among SOs/ACs:

1. Will powerful organizations get more power within ICANN over other stakeholders in the community through this model, by becoming unincorporated association and have legal enforceability?
2. If an SO or AC moves to become a formal member, what can it do that other SOs or ACs can't do? [FAQ]
3. Under the empowered designator model what would the standing of the nomcom be? What rights would it be afforded and can those rights be limited to recall of their board members? [**Lawyers**] [FAQ]
4. Does this model give more powers to the GAC more than it does today?[FAQ, Gov]
5. Does this model give the same powers to the GAC relative to other SOs/ACs, or does this create any difference?? [FAQ, Gov]
6. Does the model satisfy NTIA's criteria of no governmental control? [FAQ, Gov]

Implications for each SO/AC:

7. Will my organisation have to join anything to exercise the powers listed as requirements by the CCWG proposal? [FAQ]
8. Will any new obligations arise for SOs or ACs that move to become a formal member? [FAQ]
9. Under the empowered designator model what powers would be afforded to the GAC as they do not appoint a board member?[FAQ, Gov]
10. What happens if half of an SO wants to become full members and half to do not? (i.e. split in the SO/AC internal membership about becoming full members of ICANN) [FAQ, Gov]

11. How granular can / should a member be under hybrid-membership model? Do individual SG's or constituencies have full membership rights that they can exercise unilaterally? Or should / can there be certain constraints on the exercise of member rights? How to protect minority rights without locking-up org with complaints? At what different levels may / should decisions be taken?

Enforceability:

12. How can the community exercise the powers and have the most effective enforceability on rejecting or approving budget/operational/strategic plans under membership model and designators model respectively? [FAQ, Gov]
13. How could the decisions by the IRP be made enforceable to the Board under membership model and designators model respectively? Are there other alternatives to make it enforceable other than to give the legal standing such as through the Bylaws?[**Lawyers**] [FAQ, Gov]
14. How enforceable can internal accountability mechanisms be made under California law without resorting to the courts? eg. The IRP or a formal mediation process.[**Lawyers**]
15. What precedents are available to assess California's approach when internal accountability disputes are appealed to the court? eg. Binding IRP is not followed and is brought to court to enforce the decision of the panel.[**Lawyers**]
16. How will the community enforce the bylaws under the empowered designator model? [FAQ, Gov]
17. Under hybrid/membership model, how and when will members be entitled to file derivative lawsuits against ICANN and what is the impact on the community from derivative lawsuits? To what extent can / should that member right (to file derivative lawsuits) be constrained? [**Lawyers**] [FAQ, Gov]