

Hopes for Dublin

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Online: <https://internetnz.nz/blog/hopes-dublin>

As the 54th ICANN Meeting in Dublin approaches, CCWG-Accountability member and InternetNZ Chief Executive Jordan Carter sets out his hopes for the meeting, and his firm conviction that a path to consensus and speedy resolution of the accountability debate is open – and should be grabbed.

It's crunch time.

In Dublin starting this Friday, a significant test faces the Internet community and ICANN. A real opportunity is there for consensus to emerge around a solid plan for improvements to ICANN's accountability. These are improvements that would see the completion of the accountability framework for ICANN's stewardship of the IANA functions (alongside what is in place for the other communities (numbers and protocols)).

Making that happen is going to require everyone to be flexible. That's a challenge, but an achievable one.

By way of context, the CCWG is one of the two tracks of the IANA Stewardship transition, together with the ICG. Both are working to make ICANN an effective steward of the Internet's domain name system and a responsible, secure & reliable operator of the IANA Functions for the three operational communities (names, numbers and protocols). The CCWG's working method has been a multistakeholder one, in keeping with how the Internet community makes policy best.

After starting work at the end of 2014, the CCWG released a first draft proposal for how to improve ICANN's accountability in May, and a second in August. Since public comments on the second draft proposal closed a month ago, the CCWG has been analysing the feedback offered by the community, and has also spent time in a side effort to understand the logic behind the Board's counter-proposal.

In parallel, as has been the case after each moment of public feedback, CCWG participants have been thinking through how to take the proposal to the next level – taking the feedback into account, clarifying the proposal, thinking about how to change and improve things for a final effort at a proposal that can be tested for consensus.

Compared with the most recent draft, here are some key changes that are part of the discussion that could lead to a new synthesis:

- A consensus approach for decisions about using the new community powers proposed by the CCWG (replacing the voting-based system)
- Much clearer explanation of how the reserve powers the CCWG has been dealing with fit into and build on existing ICANN processes (particularly the importance of consultation and collaboration **before** community powers come into play)
- The replacement of a membership model with a designator model (which would reduce the direct enforceability of some of the community powers, but would guarantee that board/director removals and bylaws change approvals were beyond question – and which arguably is consistent with how ICANN operates today)

- A commitment to continuous improvement of ICANN's accountability (including perhaps through a longer-term governance review)
- Retention of the basic framework of improved review and redress through a stronger IRP, fundamental bylaws and so on

The above synthesis gives all key parties some wins: the basic framework of the CCWG's work would be intact, the model of multistakeholder policy development upheld, many of the Board's concerns taken into account, and no significant delays added to slow the transition down. Legal advisors and CCWG members have been fleshing out this approach, ready for discussion on Friday.

It seems to me that it would be viable to complete a proposal along these lines and have it out for public comment before the end of the year, and SO/AC approval early in 2016. That's probably the fastest possible, without putting at risk the quality of the proposal. And since we've done that twice, and caused confusion and concern by skimping time to get the proposal clear and readable, it isn't sensible to make the same mistake a third time.

To me that looks like an outcome worth trying very hard for – and if we can manage it, an outcome to be very happy with.

As ever, there are some risks.

- Some participants have started throwing bottom lines around. Those participants need to back off that, otherwise the chances of a consensus being achievable become very small.
- There may be a temptation for the ICANN Board to “box the CCWG in”, trying to monster it or the community into adopting a proposal that doesn't meet the community's accountability requirements in the name of timeliness. (In a separate post¹ I have already pointed out that it is ICANN that is responsible for the time pressure, so the irony of an approach like this would be rich.)
- The technical communities – numbers and protocols – could lose confidence that this accountability process, which is best seen as a "catch up" for names to attain accountability as good as protocols and numbers already have - will ever conclude. Yet if it doesn't, the accountability framework for the IANA functions would be incomplete. This in turn could risk the integrity of ICANN and its role as the IANA Functions Operator for the three communities.
- The ICANN leadership could make a mistake with the Dublin meeting, and try to repeat the failed pressure tactics it tried with the CCWG in September (on calls and in Los Angeles) – to put it politely, such an approach would be sure to backfire and reduce the chance of consensus being reached.

The bigger picture regarding risk here, which plays on my mind a lot, has to do with the fact that the world's eyes are on us.

If the ICANN community cannot arrive at a consensus for accountability improvements, the chances are that the IANA Stewardship transition will be unnecessarily delayed – possibly not even being complete by 30 September 2016.

A further delay (and it would only be a delay – the cat is out of the bag, and the transition is inevitable – it's only a question of when) would have a stack of downsides.

It would embolden critics of the multistakeholder model.

¹ See <https://internetnz.nz/blog/icann-accountability-chronology-and-dublin-thoughts>

It would annoy and exasperate the technical communities, risking the effort to have a single IANA Functions Operator serving all three communities.

It would be a red light for Congress in paying very close attention to what is going on.

It would be an admission that the players in the ICANN environment can't reach consensus on an important issue – not a great advertisement for a model that is premised on achieving consensus as its main strength in legitimately coordinating the Internet's system of unique identifiers.

High stakes for all of us.

It's reasonable to have some optimism about the chances of a consensus emerging. Nobody's interests are compromised by the sort of synthesis the CCWG is working on.

As we count down the days to Dublin, let's recommit ourselves to building an accountability settlement that works. Let's remind ourselves that consensus and being flexible isn't about "losing" anything and doesn't have to be about second-bests.

It really can be a collaborative, open process that brings all of us to a better place. Idealistic? I don't think so: it's why I support ICANN, it's why I support the transition, and it's why I want us to succeed this week and next. It's a model that works. Let's use it.

That's my hope for Dublin – a hope I welcome you to share and to turn into reality.

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