

To:

Steve Crocker, Chair, ICANN
Thomas Rickert, Co-Chair, CCWG Accountability
León Sánchez, Co-Chair, CCWG Accountability
Mathieu Weill, Co-Chair, CCWG-Accountability

[ISPCP Statement on core expectations for ICANN accountability improvements](#)

Dublin, 21st October 2015.

ISPCP remains fully committed to successful transition of the NTIA's historic role in stewardship of the DNS to the multi-stakeholder community.

ISPCP thanks you for your invitation to comment on the ongoing discussions within CCWG and the options under consideration, and to set out our core expectations for the conclusion of this process. We also congratulate the Co-Chairs of the CCWG for continuing an open, transparent and bottom-up methodology for its work.

[ICANN's Mission and Core Values](#)

ISPCP believes public confidence in ICANN can only be maintained as long as its activities remain limited to those authorised by its Mission and consistent with its Core Values. To this end it is necessary that the Mission and Core Values are expressed with sufficient clarity to support an objective and predictable assessment of whether any given activity lies within the authorised scope. ISPCP considers that CCWG Second Draft Report provides valuable and necessary improvements in the clarity of the Mission and Core Values.

ICANN's Mission must be limited, and any changes to the Mission must only be made with the express consent of the multi-stakeholder community. Accordingly, the terms of ICANN's Mission must not be open to ICANN to expand its own scope through other means. ICANN should be precluded from entering into agreements that would cause it to undertake activities or pursue objectives outside its Mission or inconsistent with its Core Values. In the event that ICANN does in fact do so, an effective remedy must be available, just as there must be for any other material breach of the Bylaws.

ISPCP was satisfied that the proposals contained in the Second Draft Report would have satisfied our requirements in this respect. Any future proposal from CCWG must offer no lower level of assurance; we recommend that the CCWG approach any proposals for further changes in this area with great caution.

[Review and Redress](#)

ISPCP believes an acceptable level of accountability is only achieved if there is fair and effective review and redress for breaches of ICANN's Bylaws. A materially affected party alleging such a breach must have access to a fair and independent review body to arbitrate such claims. The right of access to this process must be guaranteed, with the possibility of enforcement in the event that ICANN seeks to avoid it. The review body must have the power to issue binding decisions, enforceable in court if necessary, including the power to cause continuing breaches to cease.

ISPCP was satisfied that the proposals contained in the Second Draft Report would have satisfied our requirements in this respect, while acknowledging that post-transition there will be a need for ongoing work on a cross-community basis to ensure continuous improvement in this area.

Community powers

ISPCP believes that the community must have a collective right to consent to changes to Fundamental Bylaws (which must include the definition of the Mission and the Independent Review Process), and to veto changes to other Bylaws.

The community must also have the collective power to discharge individual directors or the entire Board; these powers must, however, be carefully limited so as to prevent their inappropriate use.

ISPCP also supports the right of the community to a collective power to restrain the ICANN Budget and to reject the long-term strategic and operating plans.

All such powers must be effectively enforceable, such that in the event that the ICANN Board resists their use in a particular case, the community view must ultimately prevail.

At the same time, the decision-making structure for enforcement of these powers must not unbalance the community. ISPCP expressed in response to the second Draft Report that those proposals would indeed have unbalanced the community in two respects: in relation to the relative weights of community structures in the proposed voting system, and through the disparate treatment of directors appointed by SOACs as compared with those appointed by NomCom

The decision making structure should be based as much as possible on consensus rather than on weighted voting.

Collective enforcement models

Our posture with regard to the Single Member and Single Designator Models remains unaltered: we shall continue to evaluate each according to whether it meets our requirements, without prejudice.

We anticipate that the Single Designator Model will be acceptable if accompanied by further measures to give alternative means to enforce of the availability and outcome of the IRP.. We therefore urge the CCWG to give serious attention to demonstrating that the combined package of its reforms will meet these requirements: the community powers are not the only element potentially affected by the choice of model, and it would be taking a great risk to assume otherwise.

Publication and Public Comment

ISPCP is aware of the pressure CCWG is under to conclude its work on this Workstream and present a Final Draft Report as soon as possible. We caution, however, against reckless haste, whilst maintaining full support for completion of all items identified within that workstream.

We regard the greatest threat to the likelihood of successful transition to be that perceived pressure of time causes CCWG to publish another report that does not meet stakeholder expectations, either in terms of its content, or in terms of its clarity, legibility and predictability as to the manner of its implementation. It would be far better to take the necessary time to produce a Third Draft Report that meets public acclaim and can be retitled as the Final Draft Report without material revision, than to provoke further confusion or complaint and be forced into yet another round of substantial review.

Without sight of a completed new draft we cannot say definitively whether another round of Public Comment will be required. . We would support limiting consideration of comments received to those that related to changes made in the most recent draft.