AT-LARGE ADVISORY COMMITTEE
ALAC Statement on the CCWG-Accountability WS2 Final Report

Introduction

Hadia Elminiawi, ALAC Member of the African Regional At-Large Organization (AFRALO), developed an initial draft of the Statement on behalf of the ALAC.

On 08 May 2018, the first draft of the Statement was posted on its At-Large workspace.

On that same date, ICANN Policy Staff in support of the At-Large Community sent a Call for Comments on the Statement to the At-Large Community via the ALAC Work mailing list.

On 11 May 2018, the ALAC Chair submitted comment. On 11 May 2018, the ALAC Chair requested that Staff open an ALAC ratification vote.

In the interest of time, the ALAC Chair requested that the Statement be transmitted to the ICANN public comment process, copying the ICANN Staff member responsible for this topic, with a note that the Statement is pending ALAC ratification.

ALAC Statement on the CCWG-Accountability WS2 Final Report

The At-large Advisory Committee (ALAC) of ICANN takes this opportunity to thank ICANN for putting forward the Cross Community Working Group on Enhancing ICANN Accountability Work Stream 2 (CCWG-Accountability WS2) final report for public comments.

The ALAC finds that the final report is in general consistent and addresses the requirements of section 27.1 of the ICANN Bylaws on WS2. However, we would like to note that the assurance of full consistency between all of the recommendations - which are noted in the report to be more than 100 - would depend primarily on the interpretation of the recommendations and the implementation plan. Therefore, we recommend paying close attention to the matter when developing the implementation plan and dedicating enough time to ensure that inconsistencies do not result due to misinterpretation of the recommendations.

The recommendations formulated in the various sections of this report all have merit in advancing ICANN's transparency and accountability. However, taken together, they may amount to a daunting burden on ICANN Org and its volunteer community. For this reason ALAC recommends that as the recommendations are implemented, ICANN takes an approach to minimize the impact and work associated with following these recommendations. Finally, we would like to allude that ALAC is ready to support an implementation team composed of the co-chairs and rapporteurs of the CCWG accountability.

The Noncommercial Stakeholders Group (NCSG) welcomes the opportunity to comment on the CCWG Accountability Workstream 2 (CCWG-Accountability) outcome document.

The NCSG is the most diverse body in the Generic Names Supporting Organization, with individual and organisational members from 128 countries. As a network of individual and organisational members representing the interests of non-commercial registrants, we represent a broad cross-section of the global Internet community. Many of our members were involved in the work of the CCWG-Accountability, including both Workstream 1 and Workstream 2.

I.   NCSG Comments on the Recommendations

Diversity

The NCSG supports the eight recommendations on diversity.

Guidelines for standards of conduct presumed to be in good faith associated with exercising removal of individual ICANN Board Directors

The NCSG supports the proposed guidelines and recommendations.

Human Rights Framework of Interpretation

The NCSG supports the framework of interpretation for the ICANN Bylaw on Human Rights, and we also endorse the considerations and conclusions listed in the annex.

Jurisdiction

The NCSG supports these recommendations, and we call for their full and timely implementation.

Ombuds

The NCSG has strong concerns in relation to the   the proposed Ombuds office recommendations. While we support some of the recommendations, we believe that the concerns outlined in the NCSG comment to the subgroup reports on the independence of the Ombuds office were not adequately addressed[1]. The NCSG therefore objects to this part of the Workstream 2 report for falling short of addressing this important aspect of the future work of the Ombuds office.

---

[1]https://mm.icann.org/pipermail/comments-ioo-recs-10nov17/attachments/20180115/6c8a7f0c/CCWG WS2Ombudsmanreportcomments-0001.pdf

Accountability of SO/ACs

The NCSG supports the recommendations and conclusions that the group reached in its entirety in relation to SO/AC accountability. [2]

Staff Accountability

The NCSG supports these recommendations.

Transparency

The NCSG supports the transparency subgroup recommendations in general. However, we would like to express again our support for the dissenting opinion which was jointly submitted by the NCSG and CSG. As the dissenting opinion stated: "We submit this minority statement not to disagree with the final recommendations, but to express dismay that the Working Group was not able to achieve consensus support for any clear principles to guide ICANN's decisions as to when to waive attorney-client privilege, and better align them with the overarching Bylaws obligation to "operate to the maximum extent feasible in an open and transparent manner."[3]

II.   NCSG Comments on Implementation:

While the report itself states that most of the "modifications, and many of these are either suggestions of good practices or simply optional while many others offer flexibility in how they can be implemented", it suggests that this will be a multi-year project. Some of the recommendations might take longer and some might not. The start of implementation of each project should not depend on how long it will take. Considering this, the NCSG supports the implementation approach.

---

[2] "The final report presents 29 recommendations or good practices SO/ACs should implement in the areas of Accountability, transparency, participation, Outreach and Updates to policies and procedures. It also includes recommendations on the Mutual accountability roundtable and the applicability of the IRP to SO/AC activities"

[3]

https://www.icann.org/en/system/files/files/ccwg-acct-ws2-annex-8-2-transparency-minority-statement-27mar18-en.pdf

Gouvernement français

Commentaires du gouvernement français sur les recommandations de la piste de travail 2 – deuxième consultation publique

Commentaires relatifs au rapport de recommandations du CCWG sur la juridiction

Le gouvernement français remercie le sous-groupe en charge de la juridiction pour les nombreux efforts consentis pour faire avancer cet enjeu crucial pour renforcer l'*accountability* de l'ICANN envers l'ensemble de la communauté multipartite.

Depuis son lancement en juin 2016, le sous-groupe juridiction a connu de profonds désaccords parmi les membres qui témoignent d'une importante divergence de vues sur le mandat du groupe, ses objectifs et le périmètre des solutions envisageables.

Bien que les propositions du rapport sur la juridiction de l'ICANN aillent dans la bonne direction, le gouvernement français estime qu'elles ne seront pas suffisantes pour véritablement apporter une solution aux problématiques soulevées par l'exercice unilatéral d'une juridiction particulière sur une organisation dont le mandat est de gérer un bien commun mondial, le système des noms de domaine.

Actuellement, l'ICANN est une entité de droit américain, ce qui comporte de nombreuses conséquences quant à la redevabilité de l'ICANN vis-à-vis à de l'égalité entre les différentes parties prenantes. En effet, ce statut induit que les activités de l'ICANN restent encadrées par le droit d'un seul Etat, celui des Etats-Unis, et que les juridictions américaines ont une compétence de droit. Or, l'objectif d'amélioration de la redevabilité de l'ICANN envers toute la communauté Internet induit que sa responsabilité juridique le soit envers toutes les parties prenantes sans qu'aucune ne soit favorisée par rapport à une autre et qu'aucun pays en particulier ne puisse intervenir, directement ou indirectement, dans la pleine réalisation par l'ICANN de ses missions d'intérêt public mondial.

Compte tenu des fortes divergences au sein du sous-groupe de travail, le gouvernement français encourage les membres à explorer de nouvelles pistes, en particulier proposant d'instaurer des immunités, notamment partielles, de juridiction à l'ICANN afin de garantir son autonomie et sa redevabilité envers l'ensemble de la communauté Internet mondiale.

Government France

Comments Of Government France On the Recommendations of the WS 2 –

Comments Related To the report of Recommendations Of the CCWG on Jurisdiction

---

The Government France thanks the Jurisdiction Sub-Group for the many efforts made to advance this Issue which is crucial to strengthen the *accountability* of ICANN to the whole of the Stakeholder Community.

Since its launch is June 2016 the Jurisdiction sub-group has had deep disagreement among its members which demonstrate the important divergence of views on the mandate of the sub-group, its objective and the scope of possible solutions.

Although the recommendations in the report are in the right direction, the French Government considers that these do not go far enough to truly bring a soluton to the problems raises relative to the unilateral jurisdiction of an organization which has the mandate to manage the Internet naming system for the world.

Currently ICANN is an entity that is only subject to American law which has many impacts as to the accountability of ICANN with respect to the equality between the different stakeholders. In order to improve the accountability of ICANN to all its stakeholders should require that no individual stakeholder should have a direct or indirect advantage in ICANN undertaking its global responsibilities.

Taking into account the strong disagreements within the sub-group the French Government encourages the sub-group's member to explore new possibilities for recommendations by looking into the possibility of partial immunities for ICANN vs US law in order to ensure its independence and its accountability to all of the international Internet community.

Comments From The i2Coalition (Internet Infrastructure Coalition) On CCWG-Accountability WS2 Final Report, May 2018

INTERNET
INFRASTRUCTURE
COALITION

The i2Coalition (Internet Infrastructure Coalition) appreciates the opportunity to comment on the recommendations from the Cross Community Working Group on Enhancing ICANN Accountability's (CCWG-Accountability) final report from Work Stream 2 (WS2).

The i2Coalition's diverse membership represents both large and small Internet infrastructure providers such as web hosting companies, software services providers, data centers, registrars, and registries. The i2Coalition has several key goals within ICANN, but chief among them is continuing to build a voice for underrepresented parts of the Internet ecosystem – in particular, web hosts, data centers, and cloud infrastructure providers – and ensuring that accountability and transparency are paramount. The i2Coalition brings unique representation to ICANN as it is made up of companies representing the whole broad ecosystem of Internet infrastructure companies.

We appreciate being invited to comment on the final report. We note no glaring inconsistencies between the eight previously issued reports, some of which i2Coalition has previously commented upon.

The i2Coalition appreciates the work of all volunteers who have worked diligently during CCWG Workstream 1 and Workstream 2 since this process began in 2014. In particular, we thank the volunteers of Workstream 2, who continued to work on important issues facing ICANN's future long after the IANA transition was complete. We note that this part of the process is an important one for the ICANN community and the multistakeholder model of Internet governance and that we should be proud of what has been accomplished here.

Concluding Comments

Again, we appreciate the efforts of the CCWG Accountability working groups to improve accountability and transparency within ICANN. We looking forward to working towards stronger conclusions on jurisdiction and working with the ICANN community as it prepares for the implementation of these recommendations.
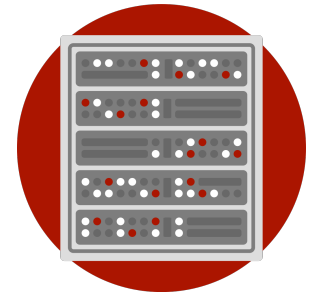
i2Coalition.com

718 7th Street NW
2nd Floor
Washington DC 20001

membership@i2coalition.com

(202) 524-3183

Registries Stakeholder Group Statement

Issue: **CCWG-Accountability WS2 Final Report**

Date statement submitted: **11 May 2018**

Reference URL: https://www.icann.org/public-comments/ccwg-acct-ws2-final-2018-03-30-en

Background[1]

The Public Comment seeks community input on whether they are any <u>inconsistencies</u> between the various sets of recommendations within the CCWG-Accountability WS2 final report.

- CCWG-Accountability WS2 Final Report (27 March 2018) (.pdf)

The final report is a compilation of eight reports, each of which has already been the subject of public comment. The RySG submitted comments on the different draft reports from the CCWG-Accountability WS2 subgroups:

- Draft Recommendations for Diversity: RySG Comment (12 January 2018)
- Guidelines for Good Faith (removal individual Board Directors) - (no comment)
- Human Rights Framework of Interpretation: RySG Comment (16 June 2017)
- Draft Recommendations on ICANN Jurisdiction: RySG Comment (10 January 2018)
- Draft Recommendations ICANN's Office of Ombudsman: RySG Comment (12 January 2018)
- Draft Recommendations to improve SO/AC Accountability: RySG Comment (26 May 2017)
- Draft Recommendations to Improve ICANN Staff Accountability: RySG Comment (12 January 2018)
- Draft Recommendations to improve ICANN's Transparency: RySG Comment (8 April 2017)

Registries Stakeholder Group (RySG) comment:

The Registries Stakeholder Group (RySG) welcomes the opportunity to comment on the Final Report of the CCWG-Accountability WS2.

The RySG has no comment to make regarding inconsistencies.

We do express our sincere gratitude to the leaders, participants, and staff involved in the CCWG-Accountability WS2 for their thoughtful and significant efforts in shaping the future accountability framework for ICANN and the community.

---

[1] *Background: intended to give a brief context for the comment and to highlight what is most relevant for RO's in the subject document – it is not a summary of the subject document.*

IOO and diversity

Why ICANN need an independent diversity "officer"?

Each structured group within ICANN can take for themselves responsibility to enhance their internal diversity.

But how can we handle the diversity in the working groups (cross-community, review teams…)? (Not included in the diversity report).

And how can we have an overall/systemic view of the diversity in ICANN and proposal to enhance it?

We suggest adding in the IOO responsibilities the role of independent diversity "officer" (IDO).

As suggested in the Diversity Sub-group WS2 ICANN Accountability:

·   Each ICANN SO/AC/group, will undertake an initial assessment, define and publish their objectives and strategies with regular updates.

·   ICANN staff will provide help, support, assistance and tools, in regard with diversity related activities and strategies to each SO/AC/group.

 The IOO will be receiving (in addition of all the publication ways proposed in the diversity subgroup report each assessment, documents, publications… finalized by SO/AC/group. As IDO it will act as the external expertise body for both ICANN staff and SO/AC/group (as per recommendation 1.8 of the diversity report).

Sebastien Bachollet

The ICANN Business Constituency (BC) has not identified any material inconsistencies between recommendations in the CCWG-Accountability Work Stream 2 (WS2) Final Report.

Moreover, we believe that CCWG-Accountability has met the requirements of section 27.1 of the ICANN Bylaws regarding WS2, and should deliver its recommendations to the ICANN Board and Chartering Organizations.

Steve DelBianco
Vice Chair for Policy Coordination
ICANN Business Constituency