**Cross-Community Working Group on Enhancing ICANN Accountability**

**Work Area 2: Review Input from Public Comment and Categorize Items into Work Streams 1 & 2**

Draft 2, 12-Dec-2014

Note: Work Stream 1 is designated for accountability enhancements that must be in-place or firmly committed before IANA transition occurs. All other items are Work Stream 2, provided there are mechanisms in WS1 adequate to force implementation of WS2 items despite resistance from ICANN management and board.

| **Accountability Suggestions from public comments and posts** | **Supported by** | **Work Stream(s)** |
| --- | --- | --- |
| Bring the *Affirmation of Commitments* (incl the Reviews) into the ICANN bylaws | BC, USCIB, SIIA, Verizon, Edward Morris | WS1 |
| Amend ICANN bylaws to recognize a permanent cross-community representative structure (all ACs, SOs, Constituencies) with authority to: | BC, ITIC, Brian Carpenter, CNNIC, Siva, TPI, Verizon, NCSG, Just Net, E.Morris | WS1 |
| Appoint members of *Affirmation* review teams | BC, Spain, Avri Doria | WS2 |
| Review a board decision, or resolve a dispute (option to use independent panel) | BC, ITIC, Heritage, SIIA, EC, Mueller, Google | WS1 |
| Approve changes to ICANN bylaws or Articles, with 2/3 approval | BC, ITIC, Google, SIIA, Hutty | WS1 |
| Approve annual proposed ICANN budget | BC, ITIC, USCIB | WS1 |
| Recall one or all ICANN Board members | BC, Avri Doria, NCSG | WS1 |
|  |  |  |
| Require consensus for any GAC advice that would need to be given deference by the ICANN board | Heritage,BC Stress Test #6 | WS1 |
| Commit the ICANN organization to maintain freedom of expression | Heritage, NCSG | WS2 |
| ICANN to undergo annual audit for transparency and achievement of goals | ITIC, Heritage, Google, Spain | WS2 |
| Have Transparency International conduct audit of all SOs and ACs | Edward Morris | WS2 |
| Establish an independent inspector general for ICANN | SIIA | WS2 |
| Severely limit ICANN ability to deny disclosure/transparency requests | SIIA, Siva |  |
| Require registry and registrar agreements be equitable and non-discriminatory | ITIC, Heritage | WS1 |
| Require supermajority of board to change registry or registrar fees | Heritage | WS2 |
| Separate policy functions from root zone management functions | Heritage, Google, USCIB, Mueller, Verizon | WS1 |
| Prohibit ICANN from entering agreements that impose obligations unrelated to DNS management | Heritage | WS1 |
| Change bylaws to establish term limits for ICANN senior officers | Heritage | WS2 |
| Change bylaws to require that ICANN remain subject to US Law | Heritage | WS1 |
| Require supermajority board vote and 2/3 community vote to change ICANN not-for-profit status or change ICANN’s state of incorporation | USCIB, Verizon, SIIA | WS1 |
| Before leaving California, ICANN must show benefits exceed costs | SIIA, USCIB | WS2 |
| Explore incorporation as international org under international law | NRO | WS2 |
| Limit ICANN executive function to implementation of policies | ITIC, Siva | WS1 |
| Require ICANN to operate under rule of law in jurisdictions that support effective redress | MPAA | WS1 |
| Change bylaws to improve Reconsideration Process:Trigger when board acts arbitrarily or capriciously;Reconsideration decisions subject to Independent Review | Google | WS1 |
| Require supermajority for Board to approve action despite advice to the contrary from ACs or significant subsets of SOs | ISPCP, ITIC | WS1 |
| Ensure that the ICANN Board can be held to its own Bylaws, and effective remedy granted if breach found by independent adjudicator. | Malcolm Hutty | WS1 |
| Prevent ICANN Board redefining mission/scope in Bylaws without community consensus | Malcolm Hutty | WS1 |
| Ensure ICANN Board does not act "ultra vires", and stays within assigned mission and scope. e.g., prevent scope creep in policies imposed via RAA. | Malcolm Hutty, BC, TPI  | WS1 |
| Require one-third of board members to devote full time to ICANN | Spain | WS2 |
| Allow GAC to select 2-4 voting ICANN board members | Spain | WS1 |
| Make all board deliberations transparent (with minimal redaction) | Siva, Robin Gross, Internet Society of China, BC | WS2 |
| *Affirmation* Review teams to have access to all internal documents | Avri Doria, MPAA, CIS, Morris | WS2 |
| *Affirmation* Accountability & Transparency Review Team could recommend sunset of original reviews and create new reviews | BC, USCIB | WS2 |
| Change standard for *Affirmation* reviews from “in the public interest” to “for the protection and advance of human rights and internet freedoms” | NCSG, Robin Gross | WS2 |
| Let local courts hear complaints on free expression, security, and privacy | NCSG | WS2 |
| Create channels for inquiry/complaint/suggestions  | Internet Society of China | WS2 |
| Require all Supporting Organizations to have accountability and transparency mechanisms aligned to those of ICANN | Edward Morris, Fiona Asonga | WS2 |
| Recall mechanism for any board member selected by an AC/SO  | Avri Doria | WS1 |
| Recall mechanism for SO Council and ALAC member selected by NomCom | Avri Doria | WS1 |
| Create mechanism to obtain transparency of documents (e.g. FOIA) | USCIB, CIS, Verizon | WS2 |
| ICANN to engage with all governments as equal community stakeholders | Fiona Asonga | WS2 |
| Give Ombudsman ability to refer a matter to external body | NCSG | WS2 |
| Allow NomCom to select and retain Ombudsman | Edward Morris | WS2 |
| Broadly expand grounds on which ICANN decisions and operations can be challenged; lower threshold to succeed in a challenge | Spain, Heritage | WS2 |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

Links to sources cited in the table:

[Public comments on enhancing ICANN Accountability](http://forum.icann.org/lists/comments-enhancing-accountability-06may14/), 7-May thru 30-Jul, 2014

[BC (Business Constituency) comments](http://forum.icann.org/lists/comments-enhancing-accountability-06may14/pdfUqkydSWPcN.pdf) and Stress Tests, 27-May-2014

[Google comments](http://forum.icann.org/lists/comments-enhancing-accountability-06may14/pdfwmPf9Fr4gw.pdf), 28-May-2014

[SIIA comments](http://forum.icann.org/lists/comments-enhancing-accountability-06may14/pdfUayC2ZzenT.pdf), 30-May-2014

[Heritage Foundation comments](http://forum.icann.org/lists/comments-enhancing-accountability-06may14/pdftmfaKEvnSR.pdf), 20-Jun-2014

[Public comments on enhancing ICANN Accountability](http://forum.icann.org/lists/comments-enhancing-accountability-06sep14/index.html#00014), 6-Sep thru 13-Oct, 2014

[ITIF Principles](http://forum.icann.org/lists/comments-enhancing-accountability-06sep14/pdfrffl9RL6Ci.pdf), 27-Sep-2014

[CDT Endorsement of ITIC principles](https://cdt.org/blog/clear-and-concrete-principles-for-icann-accountability/), 4-Aug-2014

[ISPCP comments on proposed Bylaws change](http://forum.icann.org/lists/comments-bylaws-amend-gac-advice-15aug14/pdfhGb2aiKDu8.pdf) 14-Sep-2014

[Malcolm Hutty, comments at ICANN51, Enhancing ICANN Accountability session](http://la51.icann.org/en/schedule/mon-accountability-governance/transcript-accountability-governance-13oct14-en.pdf) 13-Sep-2014