

Statement of the Non-Commercial Stakeholders Group on the [Third Accountability and Transparency Review Team \(ATRT3\) Draft Report](#)

1. The Non-Commercial Stakeholders Group (NCSG) welcomes the opportunity to provide input on the Third Accountability and Transparency Review Team Draft Report.
2. In keeping with the questions stated in Section 1 of the Public Comment and of the draft, we will restrict the content of this document to what was specifically requested in the call regarding the critical topics. Therefore, in order to aid your analysis of our input, the present comment will be divided into the following tracks: (a) Recommendation with respect to Specific and Organizational Reviews and (b) Suggestion with respect to prioritization towards activities, policies and recommendations. Despite that, we shall bring up information mentioned in other key areas worked on the draft.

Recommendations with respect to Specific and Organizational Reviews

3. The ATRT3 report got divided into options regarding the recommendations to improve the Specific and Organizational Reviews, with (i) following a more conservative approach, combining the existing set of recommendations with a new third party oversight mechanism (like an auditorship), and (ii) giving a different type of reform inputs to each category of Review, with both of them focusing on more maturing time of implementation and dynamics on the process.
4. This stakeholder group also addresses the wills and claims of 83% of the community regarding the reconsideration or amendment of the Organizational Reviews, as it is shown in the survey of the report. Specifically regarding Organizational reviews, in an input offered at the opportunity of the "Long-Term Options to Adjust the Timeline of Reviews," we had already alerted the need for reviews to be conducted in a way that would not be burdensome to the community, as well as their prioritization and timeline.
5. At the opportunity, two points supported by NCSG were the following:
 - *Adding timing criteria both to initiate a Review and for the duration of the Review, with the caveat that the timing criteria to initiate a Review should not be based on the completion of the implementation of the Review but solely based on the period of time that has elapsed since the completion of the Review; and*
 - *Limiting the time for the duration of the Review.*
6. It is important to consult with the community to set proper timelines for ICANN reforms/reviews. We believe that the agreement reached back in 2018 around the concept of staggering reviews and limiting the number to one Specific Review running at any time, and no more than two Organizational Reviews running concurrently were valuable in terms of allowing the community to improve the focus on the reviews underway. At the time, we

asserted the importance of linking the motive to start a specific review on the need to assess the necessary changes and improvement through the Reviews¹.

7. On the note of the priority of the reviews, we had also acknowledged the following:

(...) in cases without bylaws instructions, it is difficult to ascertain the priority of some Reviews over others, especially when the Review relates directly to the accountability of the ICANN community. We believe that the Reviews should be undertaken through ICANN's set and pre-established timelines. We also maintain that ICANN cannot limit the number of Reviews to only 3 at one time, since the community might decide that more than 3 Reviews need to be undertaken.

8. We welcome the ATRT3 efforts in attempting to set criteria for the proposed reviews; however, this Stakeholder Group has unsure feelings towards the Options 1 and 2 scopes presented on the draft by the ATRT3. Both of the options fail in addressing the problem of community burdensome, since the Option 1 opts for keeping the set of Specific and Organizational Reviews as already is in contrast with Option 2 that tries to consolidate distinct Specific Reviews into a single one, which would not be manageable, in practice, to community accountability.
9. Furthermore, Option 2 also presents problems when addressing the Organizational Reviews. It's unreasonable to believe that the community will be able to conduct a whole review process, which sometimes takes a whole year into a 5 (five) days workshop, even if focused on SO/AC self-inspection in the context of continuous improvement
10. That would significantly reduce the quality and legitimacy of the content and discussions that takes on during the drafting and evaluation period of these reviews. Also, even if it kept the quality and the scope reduced, it would be at the expense of the community tireless effort during these intense five days workshops that could cause burnouts.
11. Moreover, Option 1 suggests an oversight mechanism that should be responsible for auditorship the implementation of the recommendations of the reviews done by the community. While this would reduce the responsibility of the community, duplication of efforts, and be an efficient way to guarantee that ICANN implemented the recommendations without having a holistic review, for example, this oversight mechanism could also present problems if it's an external reviewer.
12. In that situation, an external reviewer could, in many cases, have an approach that would be highly dissociated from ICANN's reality and the community's perspective. It's unlikely that a consulting/compliance firm, for example, would take into consideration the aims and interests of each Stakeholder Group when conducting this process, and that is why this Independent Accountability Office if implemented, must be composed by ICANN Org staff members.

¹ Comment of the Non-Commercial Stakeholders Group on Long-Term Options to Adjust the Timeline of Reviews, available at https://docs.google.com/document/d/1VIItIeJMKjQMinu_IvJ1uJOvXSfTc_4U5ay_k7F6beOQ/edit#

Suggestion with respect to prioritization towards activities, policies and recommendations

13. The ATRT3 also seeks for inputs regarding the topic of prioritization towards activities, policies, and recommendations. About this matter, while this Stakeholder Group understands the need of having a process for prioritization of recommendations in order to reduce the amount of unnecessary work, we also believe that the creation of a community-led entity would have the opposite desired effect, worsening the burden that already exists.
14. The draft report says that members with significant ICANN experience and participation in significant processes, such as CWG or WS2, would be the appropriate ones to compose the community-led entity idealized by the ATRT3. It also includes members from ICANN's board and organization.
15. The dilemma in this suggestion lies in the fact that these members are already involved in the Specific Reviews processes, which generally takes a lot of their time and effort without any compensation for it. Also, it is expected that this prioritization is completed in one year, concomitantly with other tasks that these members are expected to deliver on their community, which is unreasonable.
16. This type of prioritization process puts additional work on its members and also entails an extra responsibility that shouldn't be of the community, since conducting the reviews should be its significant role, with ICANN playing an oversight position on the scheme of things.
17. Nonetheless, the future members of the group, that will be representing a structure and not themselves as individuals can also be called upon to deal with exceptional circumstances far beyond the original scope, such as emergency re-allocation of funds, if a prioritized implementation needs to be canceled, or any other emergency approval that is extremely time-sensitive. This amount of work, combined with the urgency of delivering results and lack of counterparts, can lead to another problem: the lack of volunteers due to the already overwhelmed community.
18. Aside from that, we believe that two other points must be addressed: (i) over the years, this community and the ICANN Org have also faced cases of initiated reforms not being adequately finished due to reasons such as resource allocation and (ii) there are ongoing processes, such as ICANN Multistakeholder Model Review, that could be harmful and possibly result in a duplication of efforts if the recommendations developed for WS2 accountability, for example, are not fully implemented or adopted.
19. The raised points above must be taken into consideration if the community decides for creating this community-led entity since there would be a significant fund allocation due to the one-year deadline presented to complete the tasks assigned, and the prioritization should take into account the already existing recommendations to be implemented before focusing on other reviews.

Conclusion

20. As a result of what was presented before, the NCSG concludes, in summary, that:
 - a. Regarding the "*Recommendation concerning Specific and Organizational Reviews*," the ATRT3 should avoid the Option 2 as a solution to the problem addressed, since it would sharply reduce the quality of the discussions and work produced, and should also focus on improving the Option 1 proposition by ensuring that the Independent Accountability Office if implemented, would not be composed by external reviewers of ICANN's Community and ecosystem.
 - b. Regarding the "*Suggestion concerning prioritization towards activities, policies, and recommendations*," the ATRT3 should re-think the community-led entity process since it can lead to a greater community burden. We suggest that the prioritization should be made inside the review process since it would save resources allocation and avoid duplication of effort. But if not possible, the ATRT3 should aim for a more friendly, and longer period term that would not collide with other significant reviews.
21. Thank you again for opening this conversation up to the community. We are grateful for this opportunity to share our views and trust you will find our recommendations helpful. Finally, the NCSG would be happy to participate in any further discussions related to the subject of this present contribution in order to answer any clarifying questions that you may have regarding the contents of this document.