

CCWG-Accountability-WS2 Comment on the public consultation on ICANN's Draft FY18 Operating Plan and Budget, and Five-Year Operating Plan Update – Request to continue funding the CCWG-Accountability -WS2 for FY18

The CCWG-Accountability Work Stream 1 (WS1) final report Recommendation 12 mandated that there be a WS2 to follow WS1 in order to complete work on a number of topics:

“The CCWG-Accountability Work Stream 2 is focused on addressing those accountability topics for which a timeline for developing solutions may extend beyond the IANA Stewardship Transition.

As part of Work Stream 2, the CCWG-Accountability proposes that further enhancements be made to a number of designated mechanisms:

- *Considering improvements to ICANN’s standards for diversity at all levels.*
- *Staff accountability.*
- *Supporting Organizations and Advisory Committee accountability.*
- *Improving ICANN’s transparency with a focus on:*
 - *Enhancements to ICANN’s existing Documentary Information Disclosure Policy (DIDP).*
 - *Transparency of ICANN’s interactions with governments.*
 - *Improvements to the existing whistleblower policy.*
 - *Transparency of Board deliberations.*
- *Developing and clarifying a Framework of Interpretation for ICANN’s Human Rights commitment and proposed Draft Bylaw.*
- *Addressing jurisdiction-related questions, namely: “Can ICANN’s accountability be enhanced depending on the laws applicable to its actions?” The CCWG-Accountability anticipates focusing on the question of applicable law for contracts and dispute settlements.*
- *Considering enhancements to the Ombudsman’s role and function.”*

Implementation of the WS1 recommendations into the ICANN Bylaws revealed that there were two additional topics, Cooperative Engagement Process (CEP) and Guidelines for Good Faith Removal of a Director, which would have to be undertaken in WS2 for a total of 9 topics (WS2 requirements can be found in section 27.1 of the ICANN Bylaws).

The CCWG-Accountability officially launched WS2 in July 2016 as part of the Transition budget and created individual sub-groups to address each of the WS2 topics, with an overall intent to finalize recommendations within a year, i.e. by June 2017.

By the beginning of 2017, it had become clear that the CCWG-Accountability-WS2 would not be able to successfully complete all of its work by June 2017. The reasons for this include:

- Completing the Transition and volunteer exhaustion – WS2 depended for the most part on the same volunteers as for WS1 and a number of these were still heavily involved in the oversight of the implementation of WS1 to ensure a successful transition on September 30th. Additionally, all volunteers needed to recharge after completing WS1 and the transition and for all intents and purposes the work on WS2 topics only began in earnest in the fall of 2016.
- Complexity of the topics – Once the sub-groups began working in earnest on their topics some of these revealed themselves to be significantly more complex than originally anticipated for topics such as Diversity, Human Rights and Jurisdiction.
- New working method – WS1 was essentially a plenary activity for the most part with plenary meetings on a weekly basis for more than a year. Given the topics for WS2 were well delineated it was agreed that it would be most effective to have individual groups for each of the topics prepare recommendations for the plenary to review. Although most of the participants were part of WS1 this new working method required adjustments by working group members, and during the ensuing transition work did not progress as quickly as hoped for. This working method also implied that as each topic was completed it would be put out for public consultation.
- WS2 and the reality of public consultations – In line with the new working method the objective of having individual public consultations on sub-group recommendations was twofold – first it would provide the community with smaller documents on which public comments were sought vs aggregating 9 distinct topics into a single massive document such as the WS1 recommendations. Secondly it was hoped that this would speed up the overall process as topic recommendations could be finalized individually vs waiting to complete all of them simultaneously and risking re-opening certain recommendations which would have been completed earlier in the process. Overall this approach seems to have worked but the reality is that having a sub-group produce a draft set of recommendations on a given topic, getting these approved by the plenary, posting these for a 6 week public comment, summarizing, analyzing and responding to comments is a 4 to 6 month undertaking per topic minimum. As such the CCWG-Accountability-WS2 published for public comments its first set of draft recommendations on improving ICANN’s transparency on 21 February 2017. It is expected that at least six of the nine WS2 topics will have published draft recommendations for public consultation by ICANN 59.

The CCWG-Accountability-WS2 at its Face to Face meeting at ICANN 58 in Copenhagen considered this and concluded that:

“..... the CCWG discussed how to best finalize its work reports by the sub teams will be put to public comment and approved by the CCWG as they get ready, there will be a final public comment period only to ask for comments on inconsistencies between the various individual reports. CCWG will reach out to the chartering organizations to recommend the same staggered approach to them. groups made progress, yet it is certain the group will not finish its work by June this year and extend its work beyond the end of the fiscal

year 2017. A discussion on carrying forward resources to the next fiscal year has been initiated, but it is expected that the CCWG will stay within the budget initially proposed.”

The CCWG-Accountability-WS2 has completed its first public consultation on its draft recommendations on improving ICANN’s transparency, currently has two additional sets of recommendations open for public consultation (Good Faith Guidelines and SOAC Accountability) and expects to publish the draft recommendations for the Human Rights Framework of Interpretation in early May. Several other topics are progressing well and it is expected that these will produce draft recommendations for public consultation in the coming months. Based on this the CCWG-Accountability, including its 270 members and participants, feels that it should complete its work by the end of FY18.

As such the CCWG-Accountability is requesting that it be funded to continue its activities through the end of FY18 when it expects to have concluded its work. It is estimated that this extension including the Transition costs for FY17 would still be within the total original budget envelope allocated for the Transition.