

## Joint Registries/Registrars Stakeholder Group Statement

Issue: **Recommendations on ICANN Jurisdiction**

Date statement submitted: **10 January , 2018**

Reference URL: <https://www.icann.org/public-comments/recommendations-on-icann-jurisdiction-2017-11-14-en>

### Background

The CCWG Accountability (Work Stream Two) subgroup has issued a report with recommendations on ICANN Jurisdiction. (subgroup [wiki page](#) )

The report contains recommendations regarding (1) possible application of US sanctions under the Treasury Department's Office of Foreign Assets Control (OFAC), (2) choice of law and venue clauses in registry/registrar agreements with ICANN; and a suggestion for consideration of another multistakeholder process of some kind to allow for further consideration, and potentially resolution, of jurisdiction-related concerns that were raised but not resolved by the subgroup. I have summarized the recommendations in the attached document.

The report is 29 pages, with the executive summary on pages 3 to 8. In addition, there are six annexes comprising another 238 pages:

- Annex A – Subgroup-created public questionnaire and responses;
- Annex B – Questions to and Responses from ICANN Legal;
- Annex C – ICANN Litigation Summaries;
- Annex D – Proposed Issues List;
- Annex E – Dissenting Statement from Brazil; and
- Annex F – 27 Oct. 2017 Transcript - CCWG Accountability Plenary Discussion on Jurisdiction.

### **Summary of the CCWG report on Jurisdiction:**

<https://docs.google.com/document/d/140hksqnXVB8KGvMe88UINqo2USbPhw63StAgnk5kRyg/edit>

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### Draft RySG and RrSG comment

The Registries Stakeholder Group (RySG) and Registrar Stakeholder Group (RrSG) welcome the opportunity to comment on the proposed Recommendations on ICANN Jurisdiction. The RySG and RrSG want to express their appreciation for the work and commitment of the members of the CCWG Accountability Work Stream Two on this issue.

The RySG and RrSG wish to make the following comments on the proposed recommendations.

We welcome the subgroup's effort to investigate issues between ICANN's goal of administering the Internet as a neutral global resource and the possible imposition of sanctions by the US or other countries. We support the report's recommendations with regard to OFAC licenses and the suggestion to provide clear information about the limited applicability of OFAC restrictions for non-US based parties under contract with ICANN.

The RySG and RrSG appreciate that the recommendations respecting choice of laws and choice of venues clauses (in form registry/registrar contracts) with ICANN are presented as suggestions for consideration by ICANN and the CPH and acknowledge the particular importance of allowing registries and registrars to have direct influence over changes with the potential to introduce broad changes to their contractual frameworks.

With respect to the suggestion for another multistakeholder process to discuss unresolved jurisdiction issues, the RySG and RrSG do not support such a proposal.

Jurisdiction has been a topic of discussion within the CCWG Accountability for over three years, culminating in recommendations respecting OFAC and governing law/venue clauses that have the potential for yielding positive results for the overall ICANN community.

But further discussions regarding jurisdiction in an ICANN context seems unwise. Three years is more than enough time to develop proposals that have a reasonable chance of gathering community support, and indeed that appears to be exactly what has happened. Sufficient time, attention and community resources have been given to the topic.