**ICANN Board comments on CCWG-Accountability Draft Recommendations for Enhancing SO/AC Accountability**

Summary: The *Cross Community Working Group on Enhancing ICANN Accountability* (CCWG-Accountability) provides a report regarding enhancing SO/AC Accountability, with three areas of recommendation:

Track 1. Summary of Best Practice Recommendations for Accountability, Transparency, and Participation within SO/AC/Groups.

Track 2. Evaluate the proposed “Mutual Accountability Roundtable” to assess its viability and, if viable, undertake the necessary actions to implement it.

Track 3. Assess whether the Independent Review Process (IRP) should be applied to SO & AC activities.

The ICANN Board appreciates the opportunity to provide input to the *CCWG-Accountability draft recommendations for enhancing SO/AC Accountability*. We are providing our input to the CCWG-Accountability, with a copy to the public comments for the wider community, to identify areas that we believe will benefit from further deliberations within the group.

In general, we find the CCWG-Accountability’s draft report to contain many excellent ideas as well as several recommendations that are actionable and implementable. The following serves as our input for the group’s consideration.

**Track 1. Summary of Best Practice Recommendations for Accountability, Transparency, and Participation within SO/AC/Groups.**

The Board supports the draft recommendations outlined in Track 1 regarding best practices for accountability, transparency, participation, outreach, policies and procedures, and has some suggestions for consideration below.

The transparency and accountability of Supporting Organizations and Advisory Committees, together with stakeholder engagement in ICANN, are a fundamentally important part of ICANN’s multistakeholder model and its success. These elements are critical in the full spectrum of community work, may it be in relation to policy development or in the exercise of community powers.

The draft recommendations are an important part of the ongoing dialogue on ICANN’s overall transparency and accountability in relation to the respective roles and responsibilities of actors in the ICANN ecosystem (i.e., Community, Board and Organization/Staff). In this regard, we propose some suggestions for consideration:

(a) Accountability of SO/AC/Groups Collectively

We note that the report has a strong focus on the accountability of individual groups and a lesser focus on the accountability of the collective SO/AC groups. The broader “who watches the watchers” question, which was raised at the beginning of the report, remains largely unanswered. Notably, there is no specific reference to any accountability mechanisms directed towards the newly created Empowered Community and its associated powers.

Those participating in the Empowered Community have significant responsibilities, such as the ability to reject ICANN’s budget, reject changes to the Bylaws, and recall the ICANN Board. The exercise of these powers will have significant impact on ICANN’s operations, its ecosystem, and its reputation.

The responsible exercise of community powers thus calls for SOs and ACs, when they are in the Decisional Participant role, to be accountable not only to their own membership, but also to the community as a whole. The SO and AC (and their respective stakeholders) transparency and accountability mechanisms are clearly a start to this effort. With this in mind, we encourage the Subgroup to have a more explicit consideration of how SO/AC accountability would work, particularly when acting in the Empowered Community Decisional Participant roles that relate to the broader, collective community powers.

Along these lines, we believe the draft recommendations would benefit from examples that help address specific best practices across all SOs and ACs on how the respective groups in the community might be accountable to the community and not just to the membership of the respective SO and ACs.

We also believe it is important that links to all key documents on SO/AC transparency and accountability (such as policies, procedures, and documented practices) be available from ICANN’s main website, such as through a subheading under “accountability”. This would provide easy and consistent access amongst and between SOs and ACs. The Board assumes that these links/documents are already prominently displayed on each respective individual SO/AC website.

(b) Accountability to Bylaws

Beyond the new Empowered Community powers and rights laid out in the Bylaws, there are also additional areas where the SOs and ACs collectively have more responsibility for helping ICANN meet its Bylaws’ obligations. For example, while ICANN is responsible for making sure that the Specific Reviews are conducted in accordance with Section 4.6 of the ICANN Bylaws, the community plays an important role in making sure that the Reviews happen in a timely manner. The SOs and ACs are responsible for selecting the Review Teams, for performing the reviews and delivering reports. Based on the Bylaws, there is fixed time between each review cycle, so the longer the process takes, the shorter the period of time for implementation before the next review cycle hits, which evaluates the outcomes of the implementation of the reviews. Are there things that the SOs and ACs could do collectively to further this work in a timely basis?

(c) Expansion of ATRT Review Scope

On the recommendation that future *Accountability and Transparency Review Teams* (ATRTs) be encouraged to examine implementation of these best practices among SO/AC/Groups, the Board is concerned this would significantly expand the scope and efforts of the ATRT review team, as well as the organizational staff supporting them. The scope of the ATRT review as it stands is already quite extensive. The proposed additional scope that would include review of actions across all SO/ACs and subgroupings thereof, while important and relevant, may not be scalable in terms of resources.

We encourage the CCWG-Accountability to consider whether this recommendation may be better addressed as part of the organizational reviews conducted by independent examiners for each group. The ATRT review process can take into consideration the reports of the independent examiners as part of their overall work without delving into the remit of the organizational reviews.

If there are cross-community accountability efforts identified by the group, then the propriety of the inclusion of any of those efforts in an ATRT review scope should be considered at that time.

## **Track 2. Evaluate the proposed “Mutual Accountability Roundtable” to assess its viability and, if viable, undertake the necessary actions to implement it.**

We note that this topic raises the same question as the one addressed in Track 1 on “who watches the watchers” or “in what ways should the respective groups within the community be accountable to the community?”

We believe that any cross-constituency accountability mechanism should be informal in nature, but codified and communicated in some way so as to make it broadly known and adopted as a community-wide norm. Considerations of mutual accountability could also be broader than how parts of the community can talk to each other and share best practices. The stronger the requirements and considerations of collective accountability are, the less likely the community is to need to build structures such as a mutual accountability roundtable.

We encourage the community (within respective SOs and ACs, and as a collective) to explore this aspect further, as appropriate, and to consider, in relation to each group’s participation in the ICANN community, what the collective social contract might be regarding accountability to the overall community.

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## **Track 3. Assess whether the Independent Review Process (IRP) should be applied to SO & AC activities.**

As the CCWG-Accountability notes: The IRP requirements and rules are not developed to attach to acts of the SOs/ACs or the Empowered Community; and adjusting the rules currently framed in terms of whether the ICANN Staff or Board violated the Bylaws would represent a significant change to the IRP – as well as consideration of, for example, the scope of standing panel expertise, and size.

While the IRP is probably not the appropriate place to take grievances against SOs/ACs/Empowered Community, we note that the recommendations do not offer alternative mechanisms for what should happen if failure in accountability occurs.

It would be beneficial for ICANN and the community if the CCWG-Accountability were to consider and identify what alternate mechanism, existing or new, should apply to address grievances against SOs/ACs/Empowered Community.

We thank the CCWG-Accountability for its work on the draft recommendations. We look forward to providing further input as appropriate during the finalization of the recommendations by the community.