Report of WP1 Sub-group on Community Mechanism: balance of power / votes / influence / whether there is a Council

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The Sub-group met on Tuesday for 90 minutes (minus Matthew who could not attend).

The definitive outcome was the realization that in the developing country cities of New York, San Francisco and Montreal, the telecommunications infrastructure was insufficient to sustain a Skype voice call. We had to revert to a telephone bridge.

On the subject matter itself, we determined that there were six separate issues to address, some of which are linked.

1. Who should participate in the "Community Council" (an arbitrary name used for the purposes of this discussion) - specifically, all SOs and ACs, or just those that have "opted-in"?
2. What voting weight should each SO/AC receive?
3. Should AC/SOs be limited to one vote per representative, or should fractional voting be allowed?
4. How should we handle groups that decide to (i) opt-out altogether, (ii) opt out on a particular issue, or (iii) participate but abstain?
5. Should this just be a "mechanism", or a formal group?
6. Should the GAC, which has special treatment under the Bylaws regarding how its advice is handled, be allowed to keep this status while participating in community powers?

Analysis and outcomes

There were relatively few comments in the Public Comments on these issues; where there were ones that impacted the discussion, they will be noted. Absent comments, the sub-group had to rely on its combined wisdom (or lack thereof) for its recommendations.

1. **Who should participate in the "Community Council" (an arbitrary name used for the purposes of this discussion) - specifically, all SOs and ACs, or just those that have "opted-in"?**

We recommend that all SOs and ACs be included. Some may choose to not actively "participate", and that should be allowed, but until the overall model is decided on, the exact meaning of "participate" is unclear.

2. What voting weight should each SO/AC receive?

There were a number of comments submitted on this issue. About ten explicitly supported the Reference Mechanism (ASO, GNSO, ccNSO, ALAC, GAC @ 5 votes, SSAC and RSSAC @ 2). Several suggested equal votes for all, or questioned why there should be a lower number for SSAC or RSSAC. The Sub-group did not come to closure on the weighting per AC/SO.

3. Should AC/SOs be limited to one vote per representative, or should fractional voting be allowed?

Several comments suggesting increasing the GNSO weight, commensurate with its import in ICANN, but at least part of the motivation seemed to be to ensure votes for each Constituency within Stakeholder Groups.

The sub-group recommends that fractional votes be allowed so that an AC/SO can divide its overall weight however it choses among its constituent parts. This also frees the AC/SOs to have more (or conceivably, fewer) representatives than votes. This also allows more flexibility in considering the number of votes per AC/SO (e.g., if 4 votes are allocated instead of 5, ALAC could have 5 representatives, each with 4/5 of a vote).

4. How should we handle groups that decide to (i) opt-out altogether, (ii) opt-out on a particular issue, or (iii) participate but abstain?

There was a general consensus that opting out (either in general or on a particular issue) and abstaining should not count as NO votes but should lower the denominator in the calculation of whether a majority, supermajority (or whatever threshold is required) has been reached (in other words, they should be treated as absent).

However, this opens the possibility that the outcome of any vote could be determined by a relatively small number of votes. As a result, a "critical mass" (i.e., a minimum number of YES votes) should be required for a decision to act. This can best be determined once the outcome of 2, the vote weighting plan, is finalized.

5. Should this just be a "mechanism", or a formal group?

After a substantive discussion, all three members of the Sub-group present recommend that there be an actual group formed comprised of all SO/AC representatives with a vote (including fractional votes). This group might never meet, but should an issue arise which needs its attention, it is obvious that the process will require more than just voting. The sub-group recommends that this group be activated only when an issue is raised that requires considering exercise of a community power. Since an issue will likely arise from a specific part of the community, there will need to be discussion with representatives of other SO/ACs on what the issue is and why it is important. The group will have to be the facilitator of a conversation involving all of the SO/ACs and the wider community (e.g., by public comment and/or

open mailing list). So this group WILL exist and have to take action. It seems pointless to withhold giving it a name. The powers and scope of this group will be laid out in the Bylaws, so there is no reason to fear scope-creep. "Community Council" is as good a working name as any other.

Should an issue arise between ICANN meetings, it is possible that a face-to-face meeting might be required. Although the likelihood of this happening is small, ICANN should annually budget for one such meeting.

6. **Should the GAC, which has special treatment under the Bylaws regarding how its advice is handled, be allowed to keep this status while participating in community powers?**

This issue was brought up by several people at the Buenos Aires CCWG meeting. The issue is whether the special treatment accorded GAC advice (Article XI, Section 2.1j-k - https://www.icann.org/resources/pages/governance/bylaws-en/#XI-2.1j) should be allowed to co-exist with the GAC participating in the Community Council. Alternatively, if not, the Bylaw provision would have to be deleted if the GAC were allowed to participate in the community powers. The sub-group was divided on this issue. One suggestion was that if the GAC participates in the Community Council, it should not then be able to give formal advice to the Board on a decision of the Community Council.