**Suggested Changes to the CCWG Current Budget Proposal**

**(Input submitted by Cherine Chalaby on Monday 5 October 2015 at the request of Thomas Rickert)**

**Disclaimer:**

I wish to stress that everything in this paper represent my own personal views. My suggestions below assume enforceability will be dealt with separately.

**39. Empowerment over Strategic Plan/Operating Plan and Budget (section 7.1)**

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**Current State**

N/A

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**CCWG - Accountability Proposal**

Accordingly, with regard to (1) the Five Year Strategic and Operating Plans, (2) the Annual Operating Plan and Budget, and (3) the Annual IANA Budget, the ICANN Bylaws will be changed to empower the community as follows:

(1) Five Year Strategic and Operating Plans:

* Enshrined rights for a community input process on the development of the Five Year Strategic and Operating Plans. The process should set out how the community views will be taken into account in a timely manner.
* A formal Process of Consultation between the Board and the Community to resolve areas of disagreement will be established. The Process shall be conducted in accordance with a mutually agreed schedule.
* The ability for the community to consider and reject the Five Year Strategic and Operating Plans after they are approved by the Board (but before they come into effect)
* A community decision to reject a Five Year Strategic or Operating Plan after they have been approved by the ICANN Board will be based on perceived inconsistency with the Purpose, Mission and Role set out in ICANN’s Articles and Bylaws, the global public interest, the needs of ICANN stakeholders, financial stability or other matters of concern to the community. The rationale for any community Rejection should be Consensus based. The Rejection should only concern issues that had been raised in the consultations conducted before the Board approved the Five Year Strategic and Operating Plans. New issues should not be raised for a second Rejection – all issues must be raised for consideration in the first Rejection process
* If the community exercised its Rejection power with respect to the Five Year Strategic or Operating plans, the Board would have to absorb the feedback that came with the decision, make adjustments and propose an amended Five Year Strategic or Operating Plan. If the community does not accept the revised proposal as suitable, it can exercise a second Rejection (at the higher threshold noted below)
* A 66% level of support of the SOs and ACs is required to initiate a first Rejection. A 75% level of support of the SOs and ACs is required for a second Rejection on the same Five Year Strategic or Operating plan
* After a maximum of two rejections, the Board may proceed to approve the Five Year Strategic and Operating Plans. This is critical to prevent operational paralysis. If the community regards the Board’s response to a second Rejection as unacceptable, the other community powers (as set out in this Section) are available for use
* A period of 30 days can be allowed for each Rejection. On the same basis, 60 days should be added to the Five Year Strategic and Operating planning process.

(2) Annual Operating Plan and Budget

 2.1 Development

* Enshrined rights for a community input process on the development of the Annual Operating Plan and Budget. The process should set out how the community views will be taken into account in a timely manner.
* The Annual Operating Plan and Budget must be consistent with the Purpose, Mission and Role as set out in ICANN’s Articles and Bylaws
* The Board must be able to balance community interests to avoid unfairness and discrimination
* The Board must be able to align cost with revenue so that the financial stability of ICANN is not jeopardized
* A formal Process of Consultation between the Board and the Community to resolve areas of disagreement will be established. The scope of the Consultation Process would be limited to areas of disagreement that have a 66% level of support of the SOs and ACs. The Consultation Process would have to be time limited so that the Annual Operating Plan and Budget can be decided before the new fiscal year begins.

3.2 Approval

* In the event the Annual Operating Plan and Budget cannot be adjusted to take into account the community views, the Board may proceed to approve an Annual Operating Plan and Budget that is aligned to the points of agreements and that is anchored to the Five Year Strategic and Operating Plans. This would avoid budget paralysis and would allow ICANN to continue its operations with an Annual Operating Plan and Budget more appropriately allocated to the new fiscal year than would be possible under a requirement that ICANN simply maintain the previous fiscal year’s Operating Plan and Budget.

2.2 Execution throughout the Fiscal Year

* The ability for the community to consider and reject any deviation from the approved Annual Operating Plan and Budget that relate to expenses for new initiatives that are not in the Five Year Strategic or Operating Plans and that are inconsistent with the Purpose, Mission and Role set out in ICANN’s Articles and Bylaws, after they are approved by the Board (but before they come to effect).
* The same rejection process as set out above for the Five Year Strategic and Operating Plans will apply
* The Board, however, must retain the ability to approve certain new expenses not planned for in the approved Annual Operating Plan and Budget. This allows the Board to act in cases of unforeseen urgent matters that put ICANN’s operation and mission at risk.

(3) Annual IANA Budget

* Enshrined rights for an Operational Community input process on the development of the Annual IANA Budget. The process should set out how the community views will be taken into account in a timely manner
* A formal Process of Consultation between the Board and the Operational Community to resolve areas of disagreement will be established. This Process shall be conducted in accordance with a mutually agreed schedule
* The ability for the Operational Community to consider and reject the Annual IANA Budget after it is approved by the Board (but before it comes into effect)
* If the exercise of this power leads to no budget for IANA at the start of the a new fiscal year, a caretaker budget, struck at the same level as the previous fiscal year’s budget will apply, to allow for continued operation of the IANA Functions while the IANA Budget disagreement is resolved.

Other Community Powers

In the event the Board fails to abide by these processes, or the community believes that the Board has taken a decision in these areas that is inconsistent with the Purpose, Mission and Role as set out in ICANN’s Articles and Bylaws, a binding arbitration process will be provided over that issue. In addition, the community will have the ability to remove individual Board Directors or recall the Board.