

Enhancing ICANN Accountability
Issues identified during Public Comment

All comments can be found at <http://forum.icann.org/lists/comments-enhancing-accountability-06may14/>

AoC	How should the AoC evolve to motivate ICANN's continued adherence to the requirements, without the incentive of the IANA Functions Contract	Google
AoC	There should be "more rigorous reviewing processes and further setup of strong checks and balances"	Spain
Baseline	The sufficiency of ICANN's current accountability level is a question that should be considered in the process of enhancing accountability, not a fact that should be presumed at its outset	RySG
Board	Consider safeguards needed for Board to hold their positions of total accountability - outcomes of policy recommendations, staff action/inaction, to change practice of abstention from important or complex decisions	Sivasubramanian Muthusamy
Board	Is the indirect selection process for 1/2 the Board (through NomCom) a barrier to a Board that is truly representative of the Internet community?	Spain
Board	Need more genuine geographic diversity on Board	Spain
Bottom-up decision making	"Board-Staff has a troubling tendency to violate community-made policy with impunity" and "lobbying the Board to violate the community-made policy has become the norm"	Robin Gross
Community	Accountability of Chairs of SOs/ACs/Committees needs to be considered	Sivasubramanian Muthusamy
Conflicts of Interest	Maintain focus as revenues continue to increase	SIIA
Consequences	There should be negative consequences for ICANN if it fails in respect to the requirement for accountability	Brian Carpenter
Consequences	There should be external processes in place that allow the community to make the Board accountable to the existing principles/processes	Seun Ojedeji
Contracting	Without USG backstop, ICANN could insert contractual terms that require or have the effect of limiting internet freedoms	Heritage Foundation
Define Accountability	"ICANN must define its accountability duty to domain name registry operators and their registrar partners in a unique way . . . ICANN should develop a relationship that put[s] the domain name registry operators' and their domain name registrars' unique experiences and position to use"	DNA
Define Accountability	ICANN should recognize the aspect of Accountability before the fact, instead of only considering how to answer for actions after the fact, to provide a scale of measure of successful achievement of results	Garth Graham
Define Accountability	To whom is ICANN accountable?	SIIA

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Define Accountability	For what is ICANN accountable?	SIIA
DIDP	The DIDP is a de facto standard used by staff to refuse to release information requested by community members	Edward Morris
Effectiveness	Work on improving the internal effectiveness of the organization through an overhaul of procedures and rules to lead to clear, effective and predictable policy development and decision-making processes, with simplification and transparency as overarching goals; consider "one-stop shop" as opposed to scattered mechanisms	European Commission
External Checks	ICANN has no shareholders, members or donors to impose external checks	TPI
Finances	There must be a strong emphasis on fiscal responsibility; with growth, put mechanisms in place to avoid waste, measure RoI, and report to the community	DNA
Focus	Develop independent checks and balances and mechanisms for review and redress; Goal should be a system of checks and balances in place to guarantee that ICANN operates in accordance with an agreed-upon set of principles, and that meaningful redress is available	ccNSO
General	AoC is insufficient to provide external accountability	NCSG
Globalization	Further globalization requires ICANN's legitimacy, transparency and accountability mechanisms to evolve	European Commission
Globalization	Requires the definition of a set of guiding principles and clear objectives for ICANN to achieve, ensuring that the Internet remains a truly global resource and that human rights and the global public interest are protected	European Commission
Governance	Any new governance structure should be evaluated with respect to how well it furthers widely accepted goals for ICANN	TPI
Human Rights	"Longstanding and significant impediment to ICANN's legitimacy to govern is the organization's lack of respect for basic human rights in its policy development process. . . . None of ICANN's accountability mechanisms ensure the organizations' policies protect the existing rights of Internet users."	Robin Gross
Independent Review	Reform or reinvent review mechanisms. Example, Reconsideration Process is "ineffectual to new gTLD applicants seeking to address important inconsistencies"	DNA
Independent Review	The mechanisms of reviewing an ICANN Board decision are insufficient and do not offer the appropriate level of recourse to hold the Board accountable for its actions; the Independent Review Process is now more difficult to obtain	Donuts

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Independent Review	The high rejection rate for Reconsideration Requests suggests that the Board is averse to actually examining its decisions, the procedure is flawed, or both	Edward Morris
Independent Review	The IRP's winner pays model discourages filings; accountability mechanisms that can only be accessed by the wealthy and powerful should not be acceptable to the community	Edward Morris
Independent Review	The new IRP standard requires proof that the Board acted in "bad faith", and this standard does not effectively deter the Board from violating the Bylaws or Articles of Incorporation	Edward Morris
Independent Review	ICANN should develop an independent mechanism for review and redress of ICANN actions and decisions, though the questions of accountable to whom and for what are the subject of intense debate	MPAA
Independent Review	Current processes are unsatisfactory because: Reconsideration is not independent of the Board; outcome of the IRP is purely declaratory; Rules of IRP lend to lack of transparency; IRP panels may lack reasons for declarations; Cost of IRP is prohibitive; the standard for winning an IRP is too high of a burden to provide meaningful accountability	NCSG
Independent Review	Accountability requires meaningful, external and independent checks on the decisions of ICANN's Board of Directors. At the same time, decisions should only be reviewable provided they violate a narrow set of clear, objective, pre-announced criteria	Robin Gross
Independent Review	Existing accountability mechanisms are inadequate for providing a meaningful and external check	Robin Gross
Independent Review	Accountability today rests with someone or something that receives a paycheck from ICANN, lacking the level of independence and neutrality necessary to perform an oversight and accountability function	Robin Gross
Independent Review	Existing accountability mechanisms provide too much deference to ICANN senior staff (particularly legal counsel) to guide the Board's decision making, even when they are supposed to be a check on staff	Robin Gross
Independent Review	Weaknesses in existing accountability mechanisms, such as the inability of the Independent Review Process to enforce the ICANN Board's adherence to Bylaws or Articles of Incorporation barring evidence of bad faith, must be carefully considered and addresses	RySG
Independent Review	Independent review regarding the IRP function should be conducted, including the cost of panels can be made financially feasible for stakeholders with different financial means while at the same time designing a financial structure to ensure that frivolous claims against ICANN are kept to a minimum; also, should the panel have authority to issue binding recommendations? is the composition of panels appropriate?	SIIA

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Jurisdiction	Develop procedures that give parties an ability to participate in discussion over larger governance issues regarding where they will be able to seek legal remedies [against ICANN] and which laws will apply if ICANN is no longer subject to US Court jurisdiction	Google
Jurisdiction	ICANN's reference to the laws of California do not build trust in ICANN's accountability; "lacks self-understanding of the task it is supposed to perform in the interest of the Global Internet Community"	Spain
Jurisdiction	Maintain an environment supported by legal certainty to further provide the business community and others with confidence that ICANN will comply with its mission	Verizon
Knowledge Gaps	Knowledge gaps impact the effectiveness of the current process; ICANN should carefully assess and fill these gaps in a timely manner	CENTR
Knowledge Gaps	ICANN should work to close knowledge gaps that affect the effectiveness of the current accountability process	LACTLD
Modifiability	ICANN's "accountability" procedures can be changed by the leadership of ICANN without external constraints, as the ICANN Board is ultimately responsible for decisions; Bylaws can be modified by 2/3 vote of Board; other procedures changed more easily	TPI
Monitoring	Need for development of monitoring and evaluation mechanism to allow for accountability to be ingrained across the institution	Fiona Asonga
Objectives	Objectives should be to ensure that a system of checks and balances is in place to guarantee that ICANN operates in accordance with an agreed upon set of principles, and that meaningful redress is available to those who are harmed by actions or inactions of ICANN in contravention of those principles	RySG
Ombudsman	Offers no certainty of process or timeline, with no due date or timetable for resolution. Lack of accountability is unhealthy	DNA
Ombudsman	The ICANN Ombudsman, selected, paid and serving at the discretion of the Board, is not independent and has a limited remit; a glorified complaints department	Edward Morris
Oversight	There is a lack of sufficient oversight and checks on the Board	Donuts
Policy Development	Need to assure sustainability of PDP	Fiona Asonga
Political Environment	Review should consider the political landscape over the next 15-20 years to ensure a politically supportive framework for ICANN and the concept of a single root	Paul Twomey
Principles	The ICANN corporation is accountable to the global community of Internet users and registrants	BC (Reply)
Principles	ICANN should demonstrate decisions and actions consistent with principles over a sustained period and in the face of difficult questions	BC (Reply)

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Principles	Stakeholders should be able to fully understand a Board decision and to formally dispute it through meaningful mechanism . . . The Board should be subject to a high standard to protect its integrity and to encourage confident in its decisions. The organization must protect itself form the possibility of [a majority of Board members] acting inconsistently with ICANN's mission, ideals, goals and the will of the community	Donuts
Principles	ICANN's apparent belief that it is already accountable is not shared by the community	Edward Morris
Principles	Instead of asking what are the guiding principles that should be used to ensure the notions of accountability are understood and accepted globally, ICANN should ask how it can implement the globally accepted accountability principles	LACTLD
Principles	ICANN Board should be accountable to the principles of the organization, not to the community; the community should use this opportunity to strengthen principles in a way that reflects a global view	Seun Ojedeji
Principles	Focus on predictability, transparency, inclusiveness, responsiveness, COI avoidance, independent review, redress and public accessibility	SIIA
Principles	Consider quality and timeliness of ICANN responses to stakeholders	SIIA
Principles	The ethical development of a framework for accountability should endeavor to correspond to those whom which an organization should be answerable, as opposed to the organization itself. It should address how they may, independent of the Organization, hold the organization liable to remediation, and it should reflect that the organization truly believes that account giving is forthcoming	Tamer Rizk
Public Comment	Staff is able to cherry pick among comments submitted that support its goals and ignore comments with argue against staff's desired outcome, reducing participatory opportunity to passive participation or busy work without meaningful impact	Robin Gross
Public Interest	The central issue and problem at ICANN is how the public interest is so disregarded	Domain Mondo
Reporting	Use stress tests (as suggested in BC Reply) to help design the revised accountability structures and processes	BC (Reply)
Representation	ICANN needs to be accountable to some group that speaks for the TLDS registry operators, registrars and the users of TLD services. It is not enough that only registry operators are heard from	Brian Carpenter
Representation	Domain name registry operators are underrepresented or excluded from important policy discussions (ex: initial steering committee design; ICANN strategy panels) and their "singular, vital expertise" should be included	DNA

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Resources	Resources to monitor processes, review outcomes and hold ICANN accountable to results are too large, particularly for volunteer participants	CENTR
Simplicity	Changes to the current mechanism should aim at simplifying the process rather than adding additional layers	LACNIC
Stakeholder Relationships	Need to build cooperation between various stakeholders so that there is unity in purpose, with commitment to balanced and diverse representation across regions and organizations	Fiona Asonga
Transparency	For true accountability, there must be transparency in how, why and by whom decision were taken by the Board and senior staff	Robin Gross