

Accountability and Transparency Review Team
Conference Call – Monday, 20 September 2010 – 16.00 UTC
Preliminary Report

RT Selectors and Members

(PDT) Peter Dengate Thrush
(MI) Manal Ismail, Vice Chair
(LS) Lawrence Strickling
(WA) Warren Adelman
(WC) Willie Currie
(FC) Fabio Colasanti
(BC) Brian Cute, Chair
(CD) Chris Disspain
(CLO) Cheryl Langdon-Orr
(EI) Erick Iriarte
(LL) Louie Lee
(OM) Olivier Muron
(XZ) Xinsheng Zhang

Assistants invited by RT Members

(JM) James Bladel
(FG) Feng Guo
(FA) Fiona Alexander

Berkman Representatives

(UG) Urs Gasser
(CN) Caroline Nolan

Supporting Staff

(AJ) Alice Jansen

This Accountability and Transparency Review Team (ATRT) undertook the following:

a) Discussion about the WGs' framework documents

The WGs were invited to present the questions identified by Members and to provide an update on their fact-checking process and list of interviewees.

Working Group 1 - <http://www.icann.com/en/reviews/affirmation/atrt-wg1-issues-20sep10-en.pdf>

WG 1, co-chaired by (OM) and (CD), reported that detailed analysis was necessary so as to determine whether specific sub-questions all fit into the mandated scope. This analysis may lead to a refinement of the current points.

While the list of interviewees for Area 1 – Board composition, skill-set requirements for the Board and the roles of the SO/ACs and the Nominating Committee – is established, WG1 still needs to target interviews focused on area 2 – transparency of the Board's decision-making process and the explanation of its resolutions to the ICANN community –. The WG will have its list of interviewees within the next 24/48 hours and shall start reaching out to those concerned.

In respect to Area 2, WG 1 has an outstanding question to ICANN staff (the transparency page) as well as a pending documental request (Board resolution in favor of Board papers' publication).

(BC) indicated the need to have a shared awareness of people being interviewed on Berkman's side as well the RT side.

Working Group 2 - <http://www.icann.com/en/reviews/affirmation/atrt-wg2-issues-20sep10-en.pdf>

WG2 incorporated additional questions in order to echo Berkman's comments provided in response to WG2's issue [analysis](#). Further internal discussion need to be conducted regarding the conceptual points raised by Berkman, namely whether the WG has shifted the scope of work from doing an independent analysis of the role and effectiveness of the GAC as well as analysis of how ICANN assesses the role of the GAC. The WG2 underlined that distinctions need to be made. WG2 has also added questions in relation to the Board-GAC Joint Work Group.

WG2 has identified a sample of communiqués, letters and pointers of the public input that would supplement Berkman's analysis of case studies.

The WG2 Members stressed their intention to interview key players (GAC Interim Chair, former GAC Chair, Board-GAC Joint WG Chairs etc.) as well as three representatives from SO/ACs so as to discuss their interactions with the GAC.

During WG2 presentation, Review Team Members discussed the distinction between WG's work and Berkman's assignment.

(WC) is to resign from the ATRT due to his new position in South African Government. The RT communicated the NCSG's intention to appoint a substitute in due time.

Working Group 3 - <http://www.icann.com/en/reviews/affirmation/atrt-wg3-issues-20sep10-en.pdf>

In terms of interviews, WG3 has made its first approaches and intends, in the week starting 27th of Oct., to interview:

- Jean-Jacques Subrenat, Chairman of the Board Public Participation Committee who shall outstandingly contribute to the WG's report;
- Staff responsible for the cross-community WGs and work teams' Chairs;
- Marika Konings and Margie Milam not only due to their participation in work teams, but also due to their involvement in the PDP process and guidelines generated by the GNSO review process. These Policy staff Members shall also be able to provide WG3 with a good insight into public comment periods' efficiency;
- ccNSO representatives: (CD) and Bart Boswinkel.

From the At-Large community's perspective, a number of statements, declarations and input were provided either face-to-face or in public comments. No action required.

In terms of how public input works and perhaps could be seen to work better, Chair (CLO) expressed WG3's intention to have a brief interchange with the executive committee in order to ensure that all the correct documentation was identified.

(WA) raised the point that SO/AC have their own ongoing review processes and that from a policy perspective, attention should be drawn to Board and staff. The WG3 resolved to convene so as to discuss this position.

Working Group 4 - <http://www.icann.com/en/reviews/affirmation/atrt-wg4-issues-20sep10-en.pdf>

The enclosed document compiles a synthesis of feedback received from the midterm Berkman report as well as elements of the RFI submitted to ICANN. The scope of the questions has been edited in line with issues raised by Berkman.

WG4 reported that Berkman had advised WG4 to focus on the independent review panel being the only mechanism identified as fully independent unlike the reconsideration request and ombudsman tools which are both considered to be internal or administrative. However, after careful review of the AoC, the WG4 concluded that no provision required that analysis be solely conducted on independent tools and thus decided to treat them equally.

(UG) clarified that Berkman's advice would be to refine the scope of the review and to ensure that the description is consistent with the WGs' activities. Berkman moreover stressed the fact that a consideration of all three instruments could be very helpful in terms of accessibility, effectiveness, transparency and the interplay between the different mechanisms.

WG4 Members and Berkman representatives expressed their intention to have a call the following week so as to refine this point and understand the synergies between their assignments.

WG4 is to contact Denise Michel so as to obtain clarifications on some of the RFI responses and will draw its list of interviews based on the responses received.

b) Adoption of a protocol for interviews

The Review Teams resolved that their default position and operating procedure would be to have all interviews open and recorded unless specifically requested to close the session.

A protocol was adopted in this respect and may be found at:

<http://icann.org/en/reviews/affirmation/atrt-proposed-protocols-for-interviews-20sep10-en.pdf>

For unrecorded interviews, Members should diligently keep notes of responses provided so as to ensure that the information is accurate even though not attributed to party.

c) Update on Berkman's progress

Berkman reported its progress since the submission of its midterm report a week ago:

- 17 interviews conducted to date – additional exchanges lined up for the following week;
- Worked on the DNS-CERT and .xxx case studies;
- Drafted an outline of the final report.

On the interviews side, has done much of the initial baseline fact-checking for the gTLD case study as many of the recently conducted interviews have focused on this particular process.

Berkman has interacted with Denise Michel and her team regarding questionnaires and interviews. All questionnaires should be provided by the 25th at which point follow-up calls and interviews with key players will begin.

Berkman thanked (MI) for her assistance in reaching out to GAC members.

For the remainder of interviews, Berkman representatives have proceeded with calls based on the initial questionnaires and customized content according to the expertise of interviewee.

c) Discussion about the Boston meeting

The ATRT reiterated its intention to arrive in Boston with drafts that include fact-checking analysis and draft recommendations from each WG.

The three-day meeting will be used to incorporate input from Berkman and to integrate information so as to complete recommendations before issuing the report for public comment.

The ATRT Chair – (BC) has begun drafting a template document that contains introductory and background information as well as a place holder where the WGs recommendations would fit.

The Berkman representatives concluded that half a day would be sufficient to walk through their report and will identify the most convenient time for the Faculty Members to be available to participate in Q&A sessions in their respective domains.

(BC) is to draft a straw-man agenda and to submit to the Review Team for their feedback and editing suggestions.

(CN) and (AJ) are to coordinate together regarding logistical arrangements of the meeting.

d) Discussion about the setting-up of a draft team

A draft team may be composed so as to put pen to paper in parallel and ensure that the Review Team has a complete document at the end of the third day.