Enhancing ICANN Accountability: Process and Next Steps

Overview

On 14 March 2014 the National Telecommunications and Information Administration (NTIA) announced its intent to transition its stewardship of the Internet Assigned Numbers Authority (IANA) functions to the global multistakeholder community. NTIA asked the Internet Corporation for Assigned Names and Numbers (ICANN), as the IANA functions contractor and global coordinator for the Domain Name System (DNS), to convene a multistakeholder process to develop a proposal for the transition. This process is currently under way as further described here.

During discussions around the transition process, the community raised the broader topic of the impact of the change in the historical contractual relationship with the United States in light of the transition of NTIA's stewardship role. Informed by community discussions held in March 2014 at ICANN's public meeting in Singapore, ICANN published a proposed process on Enhancing ICANN Accountability, with an opportunity for public dialogue and community feedback from 6 May – 27 June 2014, in addition to the comments received during the dedicated Enhancing ICANN Accountability session held on 26 June 2014 at the ICANN 50 meeting in London.

The proposed process defined the scope as ensuring ICANN remains accountable in the absence of its historical contractual relationship with the U.S. Government (USG), and the perceived backstop with regard to ICANN's organization-wide accountability provided by that role, such as the renewal process of the IANA functions contract. It called for an examination, from an organizational perspective, of how ICANN's broader accountability mechanisms should be strengthened to address the absence of its historical contractual relationship with the USG, including looking at strengthening existing accountability mechanisms (e.g., the ICANN bylaws and the Affirmation of Commitments).

The proposed process also suggested the formation of an ICANN Accountability Working Group (WG) to lead community discussion; the method for selecting members of the WG with expertise in certain subject matter areas; the appointment of external subject matter experts by staff; the proposed output from the WG; and included a set of questions to collect community input to advance the work of the WG.

ICANN received a total of 49 comments submitted during the 6 May – 27 June 2014 online public comment period, in addition to the comments received during the dedicated Enhancing ICANN Accountability session held on 26 June 2014 at the ICANN 50 meeting in London. Those comments related to the development of the process have been considered in the refinement of the process. Many of the comments also addressed both issues for consideration for enhancements to ICANN accountability, or proposed solutions. Those issues and solutions are collected – without analysis – in a separate document for consideration by the community groups performing the work on Enhancing ICANN Accountability.

The next steps in the process include formation of a modified ICANN Accountability Community Coordination Group as proposed in the [original proposal] on 6 May. Based on feedback received, the composition of the process has been modified to include two tracks: The revised process will have not one, but two community groups on Accountability and Governance:

1. ICANN Accountability & Governance Cross Community Group; and
2. ICANN Accountability & Governance Coordination Group.

ICANN Accountability & Governance Cross Community Group

The **Cross Community Group** has three tasks:

1. Identify issues for discussion or improvement;
2. Appoint participants to the **Coordination Group** which may be members of the **Cross Community Group** or from the broader stakeholder groups; and
3. Provide ongoing community input to the **Coordination Group**.

Membership in the **Cross Community Group** is open to any stakeholder. There are no prescribed membership numbers or methods of selection to this group. The **Cross Community Group** is envisioned as the place for *representative* participation for the ICANN community. Those who wish to follow and observe the work of the **Cross Community Group** will be able to do so through the open working methods expected for the **Cross Community Group.** The development of the **Cross Community Group** addresses comments made regarding the need for representation across ICANN's SOs, ACs, and the GNSO SG's in a way that is fully community directed. The community – not ICANN leadership – selects the members. One of the first tasks of the **Cross Community Group** will be to select its Chair and the stakeholder expert participants to the **Coordination Group** to allow the **Coordination Group** to meet at ICANN 51 in October 2014.

The **Cross Community Group** will be charged with identifying issues (in addition to those set forth in the "Issues" list compiled from the public comments) to send to the **Coordination Group** for further prioritization, research, and consideration. The **Coordination Group** will, from time to time, have matters for which it would benefit from further input from the **Cross Community Group** and will refer those matters back. The **Cross Community Group** may provide suggestions on external experts they feel would be helpful to the accountability effort.

The **Cross Community Group's** Charter will be developed by the ICANN Board, and will mainly focus on issues of working methods and interaction with the **Coordination Group**. The **Cross Community Group** will have wide latitude in its discussions, so long as the scope of the process as set forth above is maintained.

The **Cross Community Group** work is expected to proceed through open and transparent working methods. All meetings of the **Cross Community Group** will be through virtual methods, though there will be opportunities for face-to-face interactions at ICANN meetings where members are already in attendance.[1] The first such opportunity will be at the October 2014 ICANN 51 meeting in Los Angeles, California.

ICANN Accountability & Governance Coordination Group

With the development of the larger **Cross Community Group**, the **Coordination Group** is a smaller, more intensive work group that is responsible for the following:

1. Categorizing and prioritizing issues including those identified by the **Cross Community Group**;
2. Building solution requirements for issues with input from the **Cross Community Group**; and
3. Issuing the final report/recommendations.

The **Coordination Group** will have approximately 21 participants:

a. Ten stakeholder members (one per SO/AC, with the exception of the GNSO, which may identify one member per Stakeholder Group) selected by the **Cross Community Group** referenced above for their expertise in one or more of the identified areas (see list below);

b. Up to seven advisors selected by the **Public Experts Group**[2] to provide independent advice and research, and identify best practices. In addition to providing independent advice, the advisors will work closely with the other members of the **Coordination Group** in fulfilling all of the Group's work;

c. An ICANN staff member knowledgeable in ICANN's current work towards accountability and transparency;

d. One past participant in the Accountability and Transparency Review Team(s), to bring ATRT perspective and avoid duplication of work;

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[1] ICANN is not providing travel support based on Cross Community Group membership.

[2] Some stakeholders called for stakeholder selection of the advisors, and suggested that ICANN involvement in this process is not appropriate. Others called for coordination between ICANN and stakeholders in the selection of advisors. In response to comments, ICANN has modified the expert/advisory component of the accountability review. Instead of ICANN staff being the sole selector of independent advisors, or the Board, ICANN is now bringing together four respected individuals with strong backgrounds in academia, governmental relations, global insight, and the AoC, to form the **Accountability & Governance Public Experts Group**. These four individuals - who are not part of ICANN's staff or Board - will be responsible for the selection of up to seven advisors to the Coordination Group. An announcement of these four respected individuals will be made shortly. If the four respected individuals determine that ICANN community funds should be used to support the Advisors, then this will be done in an open and transparent manner. The reference to external advisors, and their full integration into this process, helps to counter the "self-review" perception that has been raised over other reviews, including the ATRT. The **Public Experts Group** will remain available as a resource to the review and may help access a broader network of expertise as needed.

e. One liaison with the IANA Stewardship Transition Coordination Group (ICG), to interface between the two processes; and

f. One Board liaison to interface between the **Coordination Group** and the Board, and to provide a Board perspective on the **Coordination Group** work.

All persons identified above will have the opportunity and be expected to participate in the work of the **Coordination Group** without limitation.

The advisors, selected by the **Public Experts Group**, will bring an external, independent voice to this process to assure that best practices are brought in from outside of the ICANN community. While there is a level of research and work that the advisors will do on their own, the integration of the advisors with the rest of the **Coordination Group** is key to considering how the research they perform can be best implemented to solve for the issues identified. The advisors can also help bring inputs in from their own networks as necessary. Utilized correctly, the advisor inputs will not only assist in developing enhanced accountability practices for ICANN, but provide a model that other multistakeholder organizations will strive to meet.

The areas identified for expertise include:
- Internet Technical Operations
- International Organizational Reviews
- Global Accountability Tools and Metrics
- Jurisprudence / Accountability Mechanisms
- Internet Consumer Protection (including privacy, human rights and property rights concerns)
- Economics (Marketplace and Competition)
- Global Ethics Frameworks
- Operational, Finance and Process
- Board Governance
- Transparency
- Risk Management
- Governmental Engagement and Relations
- Multistakeholder Governance

The **Coordination Group** will prepare a draft report on issues identified including whether measures are needed to strengthen ICANN's accountability, and if so, the recommended time frames for development of new or improved mechanisms, if any. The work of the **Coordination Group** should not reopen recommendations adopted for implementation by the ATRT processes but rather complement those and other initiatives underway. The draft report should be provided for public comment. The **Cross Community Group** may be consulted from time to time as the **Coordination Group** deems necessary.

The **Coordination Group's** draft report may also review and assess potential solutions to the issues identified, including the solutions already provided by the community through public comment.

Following public comment, the **Coordination Group** will submit its final report to the ICANN Board. The ICANN Board will immediately and publicly post the final report, consider whether to adopt all or parts of it, and direct the CEO to implement those parts it has accepted once that decision is made. ICANN staff should be involved in assessing feasibility and flagging implementation concerns as early as possible in the recommendation development process to allow for alternatives to be identified. To be clear, ICANN's goal is to have this work develop recommendations that are capable of implementation, and not solely to go through the exercise of a review. Any decision by the Board to not implement a recommendation (or a portion of a recommendation) will be accompanied by a detailed rationale.

The **Coordination Group** work is also expected to proceed through open and transparent working methods. While the work of the **Coordination Group** is expected to be achieved primarily through virtual methods, there will be opportunities for face-to-face interactions. The first meeting of the **Coordination Group** is expected to take place at the October 2014 ICANN 51 meeting in Los Angeles, California. The **Coordination Group's** mailing list will be publicly archived.

Charter

The Board will develop a charter for both the **Cross Community Group** and the **Coordination Group.** The main function of the charters will be to define the working methods of the respective groups, not to narrowly scope the work that is being performed.

The goals of this process, which will be embodied in the charters, are two-fold: 1) ensuring ICANN remains accountable in the absence of its historical contractual relationship with the U.S. Government (USG), and the perceived backstop with regard to ICANN's organization-wide accountability provided by that role; and 2) identifying new (or enhanced) mechanisms for ICANN accountability through the incorporation of best practices and expert advice and research. This can include assessing whether substantive issues identified in the public comments and by **Cross Community Group** are possible to address adequately through existing mechanisms. While the definitions suggested in the comments can be beneficial, further community input is appropriate prior to imposing a definition of accountability.

Next Steps

All stakeholders that wish to participate in the **Cross Community Group** may indicate their involvement through submitting their names to accountability-ccg-members@icann.org. ICANN will facilitate a first meeting during the third week of September 2014. All SOs, ACs and the GNSO SG's should also begin their consideration of which stakeholder experts are appropriate for appointment to the **Coordination Group** so that the selections can be completed in time for the **Coordination Group** to meet at ICANN's meeting in Los Angeles, California in October 2014.

ICANN will be announcing the **Public Experts Group** shortly, which will then be charged with identification of up to 7 advisors to serve on the **Coordination Group**. Liaisons will need to be identified from the ICANN Board and the IANA Stewardship Transition Coordination Group, and the ICANN staff member and the ATRT expert will also be announced prior to the first **Coordination Group** meeting.

It is expected that both the **Cross Community Group** and the **Coordination Group** will operate in an open, transparent and inclusive process, primarily through remote participation opportunities that would include:

- A website with a timeline of activities and events, all materials and communications from the **Coordination Group** and a full archive of all content provided and evaluated throughout the process;
- Online tools of engagement to ensure anyone can remain involved in the activities and progress of the group;
- All meetings and phone conferences will be open for stakeholders to observe, and transcripts and recordings will be posted;
- Participants in each process will also be expected to maintain an up-to-date Statement of Interest during their duration of membership in either group.