

GNSO gTLD Registries Stakeholder Group Statement

Issue: Enhancing ICANN Accountability

Date: 26 June 2014

Issues Report URL: <https://www.icann.org/public-comments/enhancing-accountability-2014-05-06-en>

The Registry Stakeholder Group (RySG) supports ICANN's decision to bring the question of its accountability forward for community consideration and input. While the RySG enthusiastically supports the goal of increasing ICANN accountability, we believe that several improvements must be made to ICANN's proposed process if it is to bring about true accountability. We write to express our views and concerns with the process in its current form, as well as to suggest alternative next steps through which ICANN can assume its proper role as the convener of the multi-stakeholder model and move the goal of enhanced accountability forward.

We take concern with certain assumptions in ICANN's proposal on "Enhancing ICANN Accountability," ("Proposal") which appear to constrain and narrow the scope and objective of the process. According to ICANN, the scope of this process is to "look at ICANN *remaining accountable* in the absence of its historical contractual relationship to the U.S. Government." This suggests that ICANN's current level of accountability will serve as a benchmark and implies that ICANN is currently satisfactorily accountable. 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. Moreover, the community has clearly called for a process leading to meaningful accountability across ICANN's full range of functions.

Further, the Proposal specifies *the tools* the working group can propose to achieve accountability, limiting the group to examining "existing accountability mechanisms like the Affirmation of Commitments." We believe that a thorough review of existing mechanisms is a necessary first step to pursuing enhanced accountability. However, the pursuit of enhanced accountability must go beyond taking inventory of current accountability mechanisms. These mechanisms cannot be assumed to be sufficient, absent deliberative evaluation of their current effectiveness. 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 addressed. Additionally, there are real questions within the community about the ability of the existing Affirmation of Commitment approach to scale or provide meaningful accountability over time.

It may be determined that even evolved iterations of these existing mechanisms cannot guarantee accountability. In this case, the community should have the discretion to consider additional tools to enhance accountability. The objective of this effort is 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. These objectives should not be hindered by restricting the tools at the community's disposal.

In its current form, the Proposal for enhancing accountability proposes for ICANN to steer the accountability process, rather than responding to the community's near unanimous call for a genuine, bottom-up multi-stakeholder process. The "opportunity for public dialogue and community feedback" seems to preclude genuine community leadership of the process. We believe that meaningful accountability must be achieved through a process that is bottom-up and led by the very stakeholders that ICANN is accountable to. Without an organic, community-led process, outcomes of accountability discussions may not reflect the perspectives of the ICANN community or respect the bottom-up, multi-stakeholder process. Though the community has not yet weighed in, ICANN has already proposed to constrain the meaningfulness of community involvement by stating that ICANN will be defining next steps and "finalizing" the existing proposal.

Despite these concerns, we wholeheartedly support the goal of enhanced accountability and believe that ICANN has an important role to play in its realization by serving as the convener of a bona fide multi-stakeholder process. In recognition of this role as a convener, we propose the following as alternative next steps for the accountability track:

- ICANN should issue a call to its Supporting Organizations and Advisory Committees seeking representatives interested in developing a framework for enhancing ICANN Accountability.
- With its call for participation, ICANN should put forward a non-exhaustive series of questions to be considered by community representatives, as well as an invitation for the community to propose additional areas of consideration. Questions to the community should address:
 - The scope, timeline, framework, and expected outcomes for the accountability process;
 - The method for selecting representatives from the community to lead the process;
 - What resources should be dedicated to the process;
 - How outputs from the accountability track are to be approved by the multi-stakeholder community, particularly in areas where matters of ICANN Policy come into play;
 - What, if any, role should be played by ICANN Staff and the ICANN Board, in the accountability process, beyond ICANN's initial role as a convener;
 - How the accountability track should interact with the ongoing process on transitioning IANA Stewardship;

- What, if any, role stakeholders outside ICANN or outside experts should play in the accountability process.
- In follow-up to the discussion of the questions above, the ICANN SOs and ACs should develop a charter for a cross-community working group to develop recommendations for improving ICANN accountability and that group should be convened.
- ICANN should arrange a time and meeting space in the near future for interested parties from the multi-stakeholder community to address the foregoing questions, and other topics of interest to the community on the subject of accountability.
- ICANN should support the community-determined process through the provision of resources and coordination support on an ongoing basis, as requested by community-appointed leaders of the accountability process.

In doing so, ICANN will move forward an accountability process that is genuinely bottom-up and community-led, requisites for ensuring representative outcomes in the process of enhancing ICANN accountability.

Names of Members that participated in this process:

1. Afilias, Ltd.
 2. Charleston Road Registry (non-voting member)
 3. .CLUB Domains LLC
 4. CORE (non-voting member)
 5. Donuts Inc.
 6. DotAsia Organisation
 7. dotBERLIN GmbH & Co. KG
 8. dotCooperation
 9. Dot Kiwi Ltd.
 10. Dot Latin, LLC
 11. DotShabaka Registry
 12. dotStrategy Co.
 13. Employ Media LLC
 14. Famous Four Media
 15. Foundation for Assistance for Internet Technologies and Infrastructure Development (FAITID) (non-voting member)
 16. Fundació puntCAT (inactive)
 17. GMO Registry, Inc. (non-voting member)
 18. ICM Registry LLC
 19. Minds + Machines
 20. Museum Domain Management Association – MuseDoma (inactive)
 21. Neustar, Inc.
 22. Plan Bee LLC
 23. Public Interest Registry - PIR
 24. Punkt.wien GmbH
 25. Punkt Tirol GmbH
 26. Punto 2012 S.A. de C.V.
 27. Radix FZC
 28. Rightside Registry (non-voting member)
 29. Societe Internationale de Telecommunication Aeronautiques – SITA
 30. Starting Dot Limited
 31. Telnic Limited
 32. The Foundation for Network Initiatives “The Smart Internet”
 33. Top Level Design LLC
 34. Tralliance Registry Management Company (TRMC)
 35. Uniregistry Corp. (non-voting member)
 36. Universal Postal Union (UPU)
 37. VeriSign
 38. XYZ.COM LLC
 39. Zodiac
- Names & email addresses for points of contact
 - Chair: Keith Drazek, kdrazek@verisign.com
 - Alternate Chair: Paul Diaz, pdiaz@pir.org
 - Secretariat: Cherie Stubbs, Cherstubbs@aol.com
 - RySG representative for this statement: Stephanie Duchesneau, Stephanie.Duchesneau@neustar.us

Regarding the issue(s) noted above, the following position(s) represent(s) the views of the ICANN GNSO gTLD Registry Constituency (RySG) as indicated. Unless stated otherwise, the RySG position(s) was (were) arrived at through a combination of RySG email list discussion and RySG meetings (including teleconference meetings).