

The background of the image is a scenic view of San Juan, Puerto Rico, at sunset. The sky is a vibrant mix of orange, red, and yellow. In the foreground, there are green, grassy hills with some stone structures. The middle ground shows a dense urban area with colorful buildings and a large, dark stone fortification. The ocean is visible in the lower left, with white waves crashing against the shore.

ICANN

COMMUNITY FORUM

61

SAN JUAN

10-15 March 2018

CCWG-Accountability WS2

ICANN 61

Update



March 2018

Agenda

1. Current Status
2. Review of recommendations
3. Process going forward
4. Questions
5. Adjournment

1. Current Status

All 8 topics have submitted recommendations for the final report:

1. Diversity
2. Guidelines for good faith
3. Human Rights FOI
4. Jurisdiction
5. Ombudsman
6. SO/AC Accountability
7. Staff Accountability
8. Transparency

1. Current Status

CCWG-Accountability-WS2 is currently preparing for a final public consultation on all recommendations.

- Given each topic has been developed individually and has been the subject of an individual public consultation, the focus of this public consultation will be on how any issues of overlap or conflict between sets of recommendations have been resolved.
- Currently there are no conflicts between sets of recommendations.

2. Recommendations - Diversity

8 recommendations ICANN and all SO/AC s **should** implement. These are broken down into 3 main themes:

- Defining Diversity – 2 recommendations
- Measuring and Promoting Diversity – 3 recommendations
- Supporting Diversity – 3 recommendations

Recommendations are structured to allow SO/AC s to adjust the diversity requirements and regular assessment to their needs.

2. Recommendations – Guidelines for good faith

- Complete name is - Guidelines for standards of conduct presumed to be in good faith associated with exercising removal of individual ICANN Board Directors
- Simply a few optional recommendations to ensure that a representative from an SO/AC using the new accountability procedures to remove an ICANN Board Director (and following these good faith recommendations) will be indemnified if they are sued by the Director they are seeking to remove.

2. Recommendations – Human Rights FOI

- CCWG-Accountability-WS1 recommendations on Human Rights required a Framework of Interpretation (FOI) be accepted by ICANN prior to those recommendations coming into force. This FOI was developed in WS2.
- The FOI is a high level framework to help ICANN and SO/ACs to consider the implications of the Human Rights requirements in their work.

2. Recommendations – Jurisdiction

- Two sets of recommendations:
 - Recommendations to ICANN Relating to OFAC Sanctions and Other Sanctions
 - ICANN Terms and Conditions for Registrar Accreditation Application Relating to OFAC Licenses
 - Approval of gTLD Registries
 - Application of OFAC Limitations by Non-US Registrars
 - General Licenses
 - Recommendations relating to Choice of Law and Choice of Venue Provisions in ICANN Registry and Registrar Agreements (these are only suggestions as these cannot be made binding using this process)

2. Recommendations – Ombudsman

11 recommendations which are very closely based on the recommendations made by the independent external evaluation of the office of the Ombuds:

1. Having a more strategic focus
2. Adapting its procedures
3. Communicating this to the community
4. Establishing timelines for all parts of the community to respond to requests from the Ombuds.
5. Establishing timelines for its own handling of complaints
6. Ensuring the office of the Ombuds has formal mediation training and experience
7. Ensuring diversity to those wishing to use the services of the Ombuds.
8. Establishment of an advisory panel to increase independence
9. Reviewing the rules of the Ombuds employment contract
10. Ensuring that an annual Ombuds report is published
11. Defining the requirements for Ombuds implication in non-complaints works

2. Recommendations – SO/AC Accountability

- ◎ **Recommendations are broken down into 3 tracks:**
 - **Track 1:** Review and develop recommendations to improve SO/AC processes for accountability, transparency, & participation that are helpful to prevent capture – Makes 29 recommendations that each SO/AC/Group should implement.
 - **Track 2:** Evaluate the proposed “Mutual Accountability Roundtable” to assess its viability and, if viable, undertake the necessary actions to implement it - While a small minority of CCWG participants supported this, the CCWG consensus view is not to recommend the Mutual Accountability Roundtable for formal implementation.
 - **Track 3:** Assess whether the IRP would also be applicable to SO & AC activities – The conclusion is that the IRP should not be made applicable to activities of SO/AC/Groups. The appropriate mechanism for individuals to challenge an AC or SO action or inaction is through ICANN’s Ombuds Office, whose bylaws and charter are adequate to handle such complaints.

2. Recommendations – Staff Accountability

Three main recommendations to address underlying issues or concerns identified through the group's analysis:

1. Addressing the lack of understanding of the existence and/or nature of existing staff accountability mechanisms.
2. Addressing the lack of clearly defined, or broadly understood, mechanisms to address accountability concerns between community members and staff members regarding accountability or behavior .
3. Addressing the lack of service level definitions and guidelines.

2. Recommendations – Transparency

Sub-group made recommendations in 4 areas:

1. Improving ICANN's Documentary Information Disclosure Policy (DIDP) – 21 recommendations.
2. Documenting and Reporting on ICANN's Interactions with Governments – 1 recommendation.
3. Transparency of Board Deliberations – 3 recommendations.
4. Improving ICANN's Anonymous Hotline (Whistleblower Protection) – 8 recommendations

3. Process going forward

- The public consultation on the complete set of WS2 recommendations should be launched mid-March 2018 and should close in early May 2018.
- The CCWG-Accountability-WS2 will review the comments and make any final adjustments prior to ICANN 62.
- The objective is for the CCWG-Accountability-WS2 to approve its final report at ICANN 62, Panama City, and submit it for chartering organization approval.
- Once approved by the chartering organizations it will be submitted for Board approval

3. Process going forward

Note: In response to the Board questions on prioritization and costs for implementation the CCWG-Accountability-WS2 has responded:

- **Prioritization and funding for implementation of recommendations is beyond the scope and capacity of WS2 and rests with ICANN and the community. The CCWG-Accountability-WS2 proposes to establish a small implementation team to assist ICANN and the community to ensure the implementation plan preserves the spirit of the recommendations and provide any interpretation advice as required.**

4. Questions?

- All CCWG-Accountability-WS2 material can be found on its wiki at

<https://community.icann.org/display/WEIA/WS2+-+Enhancing+ICANN+Accountability+Home>

5. End of Presentation

- Thank You
- Any questions on WS2 can be sent to WS2 to acct-staff@icann.org who will respond or dispatch to the person responsible.