

## Staff Accountability

During the first public comment period on the CCWG-Accountability draft document, there were several comments with regards to ICANN staff accountability and how the proposed mechanisms, so far, centered their impact only on ICANN's Board of Directors.

The comment made by CENTR recommends that an "accountability literacy, culture and attitude" is fostered by not only establishing but also disclosing existing programs on training and audit for ICANN staff in order to have staff be accountable in their day-to-day actions.

In general, management and staff should be accountable to working for the benefit of the community and in line with ICANN's purpose and mission. While it is obvious that they report to the Board (the President & CEO) or the President & CEO (management & staff), the purpose of their accountability is the same as that of ICANN:

- Complying with ICANN's rules and processes;
- Complying with applicable legislation;
- Achieving certain levels of performance as well as security;
- Making their decisions for the benefit of ICANN and the community and not in the interest of a particular stakeholder or set of stakeholders.

After considering the comments received by the community, the CCWG established WP3 to propose ways to address the concerns raised during the first public comment period.

As a result of this work, WP3 divided its work into the following steps:

1. Identify the existing accountability mechanisms in place applicable to ICANN staff.
2. Review existing mechanisms in order to assess if they address the concerns expressed by the community during the first public comment period.
3. Build a list of activities that should be undertaken in both WS1 and WS2.

The reviewed documents were:

1. [ICANN bylaws](#)
2. [The Affirmation of Commitments](#)
3. [ATRT 1 recommendations](#) and [ATRT 2 recommendations](#)

A first review of existing ICANN documentation shows that there are almost no provisions that oblige Staff to be held accountable to the SO/ACs or the larger internet community with regards to their actions.

Also, the reviewed documentation shows that most, if not all, mechanisms currently in place are aimed at holding the ICANN Board of Directors accountable but they do not refer to Staff as part

of that accountability effort in a way that addresses the concerns raised by the community during the public comment period.

An inventory of existing accountability mechanisms shows that documents reviewed include the following mechanisms:

### **Affirmation of commitments.**

The AoC includes some key commitments that while oriented to ICANN as an organization, are centered in commitments undertaken by the Board of Directors and not necessarily by Staff. Therefore, while recognizing that Staff is part of ICANN the Organization, there should be specific expectations and commitments established for Staff to be held accountable not only to the internal hierarchy of the Organization but also to those SO/ACs and the larger internet community to which their day-to-day actions should benefit.

The identified mechanisms or criteria by which SO/ACs should conduct their work in relation to the DNS are:

- a) AoC paragraph 9.1 e)
- b) AoC paragraph 7

### **ATRT**

Although Staff is constantly referred to in the ATRT recommendations, there is no particular recommendation that relates directly to Staff accountability. However, one area in which ATRT2 did make recommendations concerning the staff deals with the operation of 'whistleblowing' activities by staff, and the need to insure that there is a safe means by which staff can inform the community of problems and issues that only they can see.

### **Bylaws**

ICANN bylaws establish different mechanisms that subject Staff to be held accountable not only to the ICANN community but also to the larger community outside ICANN. The identified existing mechanisms are:

- a) Article IV, Section 2.2 a.
- b) Article IV, Section 2.3 f.
- c) Article V, Section 2.
- d) Article XIII, Section 4.

## Recommendations

Having reviewed and inventoried the existing mechanisms related to Staff accountability, areas of improvement include clarifying expectations from Staff as well as appropriate redress mechanisms. The CCWG recommends to take the following actions as part of its Work Stream 2:

- a) Develop a document that clearly describes the role of ICANN Staff vis-a-vis the ICANN Board and the ICANN community. This document should include a general description of the powers vested in ICANN Staff by the ICANN Board of Directors, including which need, and do not need, approval of the ICANN Board of Directors.
- b) Consider the creation of a Code of Conduct, transparency criteria, training, and key performance indicators to be followed by Staff in relation to their interactions with all stakeholders, establishment of regular independent (internal + community) surveys/audits to track progress and identify areas that need improvement, establish appropriate processes to escalate issues that enable both community and staff members to raise issues. This work should be linked closely with the Ombudsman enhancement item of Work Stream 2.
- c) Prepare a detailed working plan on enhancing Staff accountability as part of WS2 that includes realistic and meaningful access to redress by aggrieved parties that can demonstrate actual harm caused by ICANN staff action or inaction.