

CCWG-ACCOUNTABILITY WORK STREAM 2, JURISDICTION SUBGROUP QUESTIONNAIRE

PREAMBLE

The newly-adopted ICANN bylaws created several Work Stream 2 accountability subgroups. One of them, the subgroup on Jurisdiction, is posing the questions below for community input into the subgroup's deliberations.

As directed by ~~Bylaw Article 27, Section 27.1(b)(vi)~~ Bylaw Article 27, Section 27.1(b)(vi) and to the extent set forth in the CCWG-Accountability Final Report,¹ the Jurisdiction subgroup is addressing ~~jurisdiction-related~~ questions related to ICANN's jurisdiction,* including how choice of jurisdiction and applicable laws for dispute settlement impact ICANN's accountability.

~~As further background, the CCWG Accountability tasked this subgroup with addressing questions focused on jurisdiction of contracts and dispute settlements (Final Report, paragraph 06).~~

~~Specifically, it asked the subgroup to engage in:~~

~~Addressing jurisdiction-related questions, namely: "Can ICANN's accountability be enhanced depending on the laws applicable to its actions?" The CCWG Accountability anticipates focusing on the question of applicable law for contracts and dispute settlements. [Final Report, paragraph 234]~~

~~The subgroup's remit is more particularly described in Final Report, Annex 12, paragraphs 25 through 31.~~

To help the subgroup in these endeavors we are asking you to consider and respond to the following specific questions. In this regard, the subgroup is asking for concrete, factual submissions (positive, negative, or neutral) that will help ensure that the subgroup's deliberations are informed, fact-based, and address real issues. The subgroup is interested in all types of jurisdiction-related factual experiences, not just those involving actual disputes/court cases.

1. Has your business, your privacy or your ability to use or purchase ~~DNS~~domain name-related services been affected by ICANN's jurisdiction* in any way?

~~If the answer is Yes, please describe specific cases, situations or incidents, including the date, the parties involved, and links to any relevant documents. Please note that "affected" may refer to positive and/or negative effects.~~

2. Has ICANN's jurisdiction* affected any dispute resolution process or litigation related to domain names you have been involved in?

¹ See CCWG-Accountability Main Report, paragraphs 6 and 234, and Annex 12, paragraphs 25-31.

* For this Questionnaire~~For these questions~~, "ICANN's jurisdiction" refers to (a) ICANN being subject to U.S. and California law as a result of its incorporation and location in California, (b) ICANN being subject to the laws of any other country as a result of its location or contacts with that country, or (c) any "choice of law" or venue provisions in agreements with ICANN.

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If the answer is Yes, please describe specific cases, situations or incidents, including the date, the parties involved, and links to any relevant documents. Please note that “affected” may refer to positive and/or negative effects.

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3. Do you have copies of and/or links to any verifiable reports of experiences of other parties that would be responsive to the questions above?

If the answer is yes, please provide these copies and/or links.

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4. a. Are you aware of any material, documented instance(s) where ICANN has been unable to pursue its Mission because of its jurisdiction? If so, please provide documentation.

b. Are you aware of and able to document the existence of an alternative jurisdiction where ICANN would not be so prevented from pursuing its Mission? If so, please provide documentation.

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