**VeriSign Comments on the Draft Proposal for Affirmation Reviews and Implementation Processes**

The Affirmation of Commitments (AoC) represents a critical step forward in ICANN’s evolution. The document, which replaced the longstanding Memorandum of Understanding/Joint Project Agreement between ICANN and the U.S. Department of Commerce, lays the groundwork for a series of reviews in which Internet stakeholders will track ICANN’s progress toward key goals and offer substantive recommendations for change.

The impact of those reviews – and their effectiveness in helping ICANN to better serve its global constituency – will hinge on how they are designed and conducted. Given the aggressive timeline of the initial review process, it is critical that these questions be addressed quickly and thoroughly so that the reviews can meet the high expectations of the global Internet community. VeriSign applauds ICANN for developing its draft proposal for Affirmation Reviews and appreciates the opportunity to offer feedback on this critical process.

The draft proposal for Affirmation Reviews follows closely the blueprint established by the AoC, offering a series of action items, recommendations and timelines for empanelling the Affirmation Review teams and conducting reviews in the four areas specified under the agreement. While the proposal contains a number of positive recommendations for the Affirmation Review process, certain important questions must still be addressed. Answering those questions in the short period before the start of the first Affirmation Review will be central to ensuring that the process delivers fully on its promise.

**Diligence Needed to Ensure Focus for Scope**

Particularly in light of the aggressive timeline set forth in the AoC, the Affirmation Review teams will need to be extremely focused in addressing the issues placed before them. This will be a challenge, since the four review areas set forth in the AoC have the potential to be quite broad.

The review teams will face significant time pressure. Even under the best conditions and with the most tightly focused agendas, the teams will be pressed to complete reviews in the time allotted by the proposed process.

Without clear definitions of scope, the review teams run the risk of straying away from their intended purpose, which is to gauge ICANN’s progress toward the goals established by the ICANN community. The purpose of the AoC review teams is to assess the extent to which ICANN is meeting its established responsibilities. Laying down clear scope guidelines will help to keep these teams on track as well as the implementation of processes that check scope creep and apply a balance between what is clarifying and what is additional scope.

While the draft proposal acknowledges the challenges relating to scope in several ways -- including a recommendation to limit the size of review teams -- further guidance is needed. Under section 2 of the draft proposal, the Definition of Review Terms of Reference should be expanded to provide guidance for ensuring that the timelines and scopes of the review teams are in keeping with the goals set forth in the AoC. For example, review should look back at performance over a determined period of time and should not just be a current snapshot of performance. Also, the draft proposal should be updated to include guidance for selecting review criteria that are reflective of the underlying mission of the review teams. The draft proposal states, “review teams will make the final decision on the adoption of terms of reference in their reviews.” This is appropriate, but only to the extent that review teams are given clear guidance at the outset for establishing the proper scope.

**Panels Should Respect Established Rights, Processes and Contracts**

Members of the global Internet community are rightly eager for the start of the Affirmation Review process, as it presents an important mechanism for community review and engagement, now that the JPA has evolved. The challenge is that some members of the community may expect the panels to do more than their charter permits. Although much of this will be addressed by further clarifying the scope of the Affirmation Reviews, it is also important that review panels be instructed not to attempt to replace or mitigate the established rights, and processes and contractual agreements under which ICANN functions with its contracted parties as certainty of contractual provisions and processes enables certainty of business delivery from the contracted parties.

Although the AOC itself supports this goal by establishing a clear mandate for review teams, it would be useful to build that understanding into future iterations of the draft proposal. Moreover, the review panels should review ICANN, in part, on how well ICANN has lived up to its obligations as set forth in its contracts.

**Further Clarity Needed on Panel Composition**

The draft proposal strikes a balance, establishing a starting point for the Affirmation Review process, and providing the yet-to-be-created panels guidance as to how to interpret and execute their responsibilities. There remain, however, a few issues that should be resolved before the panels are filled. These issues include the term, duration and conflicts of the panels.

Although the current draft establishes clear processes for empanelling the review teams, it is not immediately clear the term for which those panelists will sit on teams. Since the teams are responsible for periodic reviews of their issue areas, it is possible that a single team could entrench for several reviews, or that panels could be dissolved and reformed with each new review.

While not clearly specified in the AoC document itself, it would be in keeping with the spirit of the review process to establish new panels for each review. Not only would this allow for fresh perspective on these critical issues, but it would also extend the opportunity to participate in the Affirmation Reviews to a wider group of ICANN stakeholders. This would be reflective of the increasing number of ICANN participants.

It may also be worthwhile to explore whether certain individuals or groups of individuals should be asked to refrain from volunteering to join review teams. Specifically, it may make sense for sitting members of the ICANN board of directors -- outside of the President and Chair -- to be excluded from inclusion in the review teams, given that they will be asked to review the board’s performance. In addition, for this process to work, it is important to find a way to deal with conflicts of interest issues, whether by disclosure or exclusion of panelists with regard to review of certain issues.

VeriSign commends ICANN for developing this document within the unforgiving time constraints established under the AoC. As written, the draft proposal provides a stable starting point for the development of the Affirmation Review processes. By addressing the few remaining issues, ICANN will give the review process the opportunity to truly advance the goals laid forth in the AoC. We appreciate the opportunity to offer our recommendations for strengthening the process and look forward to continuing our participation in this critical process.