# ICC Task Force on Internet and Telecom Infrastructure and Services (ITIS)
# Informal comments on "Affirmation reviews"

ICC, the International Chamber of Commerce, is a global business membership organization, with companies and associations from supply and buy sides, across sectors and geographies, and of all sizes. ICC's Internet and Telecoms Infrastructure and Services task force (ITIS) is pleased to submit informal comments on the draft ICANN proposal on "Affirmation reviews".

These review teams, required to be established by the Affirmation of Commitments (AoC), are key components of ICANN's evolution and independence. Given the important role these reviews have, ICC members believe that putting in place appropriate, fair and balanced processes and requirements for them is critical to the organization's responsibilities and to the community.

At the same time, however, ICC urges ICANN not to simply treat the Affirmation reviews as a routine review of its business-as-usual operations. The AoC included a number of specific transparency and accountability requirements, which have yet to be implemented by ICANN. In order to facilitate a meaningful review process, ICANN should concurrently initiate a process with full community input on the substance of the AoC obligations and the process by which these obligations will be assessed and fulfilled.

## Specific comments
**On section1.5 Composition of review teams and selection of members**, ICC supports the goal of creating independent review teams that can work efficiently and effectively and recognizes that every stakeholder or constituency will not have an assumed 'seat' on the review team composed. The review teams will be considering transparency and accountability, and business strongly agrees that both of these attributes are needed, and further that the size and composition of the review teams should be such that the teams themselves are also sensitive to these requirements.

With member companies and associations from across sectors and geographic regions, ICC is concerned that a single 'SO/AC' representative on the review team is too limited. As ICC has expressed in previous discussions on this matter, broad business representation in the review teams is critical. Global business from a range of sectors have much experience to contribute to the review teams and also have significant interests in the impact of the reviews.

While we appreciate that this is a draft for discussion, it is not clear how the SO/ACs will appoint or propose representatives. Clarification and further discussion about how this will work in practice within each supporting organization and advisory committee will be helpful.

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In addition, specific criteria should be developed regarding what types of expertise is being sought for each review team. This will help identify the qualifications being sought for both individual volunteers and independent experts, and clarify the process for various ICANN bodies tasked with putting forth volunteers. More specific expertise information will also provide insight into how the Selectors balance the various needs of each review team, both in the actual selection and in the community's review of these selections. Members selected from SOs/ACs must act in their own personal capacity, however there should be periodic feedback on key issues to the SO/AC they represent or are nominated from.

Business has an interest in all of the planned reviews due to its broad expertise in a range of sectors and the significant impact of the reviews on business interests. The issue of which reviews are relevant to which stakeholders, and how this will be evaluated and decided, needs further discussion and clarification.

**On 3.1.2 Review team size**, ICC believes that the objective should be to ensure an appropriate balance (per 3.1.3), inclusion of the necessary expertise and priorities for the range of stakeholder groups. ICC members are concerned that setting a strict and limited number of 7 or 8 review team members would not serve the overarching goals of balance, diversity, and expertise needed to accomplish the tasks.

Review team size may also impact how conclusions are reached by the group.
**Further on the proposals in section 3.1.3 selection of review team members**, ICC does support the concept of no double membership, and the balancing criteria outlined in this section.

**On the Review methodology**, ICC suggests the need to develop objective measures and indicators for review team evaluation. Good indicators are critical in ensuring an effective review process. ICC also supports the use of an intermediate analysis of findings/fine tuning of the methodology midway through information gathering and recommends that this should be made public before the review team evaluates and public comment should be allowed for. While we understand the purpose of the proposal focuses on review team development and methodology, it does not address the question of how ICANN would or should implement review team recommendations. We believe this is an important question to answer in order to realize the credibility of the review process.

Given the timeframes and challenges facing review panels, it will be critical that they maintain a tight focus on the core issues before them. For that reason it is important that the panels be presented with guidelines that establish clear objectives and a narrow scope.

Along those lines the business community also urges clarification of the definition of "public interest" as it relates to the charters of the Affirmation Review teams. Charging review teams with an open-ended responsibility to determine whether ICANN is acting in the public interest could dilute their capacity to conduct meaningful, focused reviews. The term "public interest" should be defined in a manner that is in keeping with ICANN's role as a technical coordination body.

**With respect to the proposals in section 3.1.4 Review teams and independent experts**
ICC suggests that these experts should be identified before the establishment of the review teams so that overall composition is transparent. In addition, it would be helpful to understand

and state clearly how the 'selectors' will identify and choose these independent experts. It is important for the community and organization to have transparency on this particular selection process to minimize risks or perceptions about how or why the particular independent expert is chosen, and to ensure confidence in the review teams.

ICC supports the posting of the composition of the review teams for public comment in **section 3.1.5 "Disclosure of review team composition and public comment".** It will be important to outline how public comments will be responded to and what will be the procedure if for instance, public comments question the composition based on the balancing criteria and call for review or changes.

### DRAFT ToRs for first review

In point 2) Questions to be addressed, sub-point a) we suggest the following one word addition "a) continually assessing and improving ICANN Board of Directors (Board) governance which shall include an ongoing evaluation of Board performance, the Board selection process, the extent to which Board composition meets ICANN's present and future needs, and the consideration of an **EFFECTIVE** appeal mechanism for Board decisions."
The ToRs should also ensure that the timelines and scope of each review team do not deviate from the goals set forth in the AoC.

Finally, while ICC members fully support the review process, it is important for ICANN to continue in parallel to work with the community to implement the specific transparency and accountability provisions of the AoC, which can build on the extensive public comment proceedings conducted as part of the President's Strategy Committee (PSC) and the Improving Institutional Confidence (IIC) process.

A last point on comments submitted to this and all other comment processes: ICC supports the recommendation made by other stakeholders that all comments should include a brief 'statement of interest' that provides information about the individual or organization submitting the comments. This enables any community member or staff person reading the comments to understand the individual or organization's background and their relation to the issues and interests. We strongly urge adoption of this practice for all comments submitted to ICANN processes.

We look forward to contributing further to the Affirmation Reviews discussions as they go forward, and thank ICANN for considering global business' perspective on these important matters.

# The International Chamber of Commerce (ICC)

The International Chamber of Commerce is the largest, most representative business organization in the world. Its hundreds of thousands of member companies in over 120 countries have interests spanning every sector of private enterprise.

A world network of national committees keeps the ICC International Secretariat in Paris informed about national and regional business priorities. More than 2,000 experts drawn from ICC's member companies feed their knowledge and experience into crafting the ICC stance on specific business issues.

The United Nations, the World Trade Organization, and many other intergovernmental bodies, both international and regional, are kept in touch with the views of international business through ICC.

For more information please visit: www.iccwbo.org

# ICC Commission on E-Business, IT and Telecoms (EBITT)

Business leaders and experts drawn from the ICC membership establish the key business positions, policies and practices on e-business, information technologies and telecommunications through the EBITT Commission. With members who are users and providers of information technology and electronic services from both developed and developing countries, ICC provides the ideal platform to develop global voluntary rules and best practices for these areas. Dedicated to the expansion of cross-border trade, ICC champions liberalization of telecoms and development of infrastructures that support global online trade. ICC has also led and coordinated the input of business around the world to the World Summit on the Information Society, Geneva 2003, Tunis 2005, and continues this effort in the activities established in the Tunis Agenda through its initiative, Business Action to Support the Information Society (BASIS http://www.iccwbo.org/basis).

**International Chamber of Commerce**

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