Summary of Public Comments on the
'Affirmation Reviews - Requirements and Implementation processes - Draft Proposal' paper

This document contains a summary of the public comments[1] received in response to the discussion paper '<u>Affirmation Reviews - Requirements and Implementation processes</u>'. A short topic-oriented analysis of the comments is provided so as to give a frame of reference for the reading of the summarized comments. Even though this summary was drawn-up so as to reflect as accurately and objectively as possible the opinions expressed by participants, it does not substitute in any way the original contributions which are publicly available for full reference at: <u>http://www.icann.org/en/public-comment/public-comment-201001.htm#affrev</u>

<u>Contributions provided by</u> (with hyperlinks)**:**

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<u>ALAC</u>	ALAC	<u>Infinity Portals</u>	IP
<u>Asia Pacific Top Level Domain Association</u>	APTLD	<u>Int'l Chamber of commerce</u>	ICC
<u>Association for Competitive Technology</u>	ACT	<u>International Trademark Association</u>	INTA
<u>Association for Progressive Communications</u>	APC	<u>ISPs and Connectivity Providers Constituency</u>	ISPCP
<u>Australian Domain Name Administrator</u>	auDA	<u>NetChoice</u>	NC
<u>BITS – Financial Services Roundtable</u>	BITS	<u>Nils A. Johannessen</u>	NAJ
<u>British Broadcasting Corporation</u>	BBC	<u>Nominet</u>	NNET
<u>ccNSO Council</u>	CcNSO	<u>R. Shawn Gunnarson</u>	RSG
<u>China Internet Network Information Center</u>	CNNIC	<u>Registries Stakeholder Group</u>	RySG
<u>Coalition for Online Accountability</u>	COA	<u>S.S. Kshatriy</u>	SSK
<u>Eric Brunner-Williams</u>	EBW	<u>Saurabh Singh</u>	SS
<u>ETNO</u>	ETNO	<u>TechAmerica</u>	TAM
<u>GNSO Council</u>	GNSO	<u>The Internet Society</u>	ISOC
<u>Go Daddy</u>	GD	<u>The Multilingual Internet Group</u>	MIG
<u>Governmental Advisory Committee</u>	GAC	<u>Verisign</u>	VS

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[1] The public comment period ran from 26th December 2009 to 10th February 2010.

1. Value of the Reviews and Methodology

TOPIC	SUMMARY OF COMMENTS	ANALYSIS
Value of the Reviews	Affirmation reviews represent an opportunity to enhance the transparency and accountability of ICANN and to effectively tackle the organization's potential problems. This is not a routine exercise. (ICC, ETNO) The achieving of international Credibility and Legitimacy should be for ICANN the golden goal of this set of reviews. This is particularly important given that the Affirmation does not provide for corrective measures should ICANN not honor its key commitments. 'The review process needs to be representative of and to all [ICANN] stakeholders' (MIG). 'These reviews, and ICANN's approach to other key policy decisions such as ccTLDs and gTLDs, offer ICANN the opportunity to prove itself and its governance model as an appropriate multi-stakeholder response to the challenges of the increasingly global nature of the internet. Despite its stated commitment to its first objective, ICANN still has a great deal to prove in this area.' (BBC) 'The way those reviews are carried out is particularly important, as their outcome will significantly assist all stakeholders to understand the progress ICANN is making toward achieving its commitments' (ISOC) Reviews are not substitutes 'for the creation of accountability mechanisms', they provide for 'ongoing examination of a variety of issues related to ICANN', such as accountability and transparency. (TAM) 'The urgency of these reviews (…) provides an opportunity	These comments focus on a crucial aspect of the Affirmation reviews, namely their significance in helping ICANN achieve its key objectives. Overall, there is consensus on the reviews being an opportunity for ICANN to prove its commitment to achieve its key objectives and enhance its performances.

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	to reorganize the management culture of ICANN to be more objective and metric driven. (…) It's time to grow up and become a responsible, accountable and rigorously managed organization. That will increase everyone's confidence and that's a good thing' (ACT).	
On Proposed Methodology (Overall)	APC supports the participatory evaluation approach contained in ICANN's draft proposal (APC); methodology is 'extremely thorough and ICANN staff is to be commended for breaking down the review methodology into such detail' (INTA); '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' (VS); ICANN's constructive approach to its responsibilities is complimented (RSG).	There is an encouraging number of participants who expressed their support for the overall approach proposed in the discussion paper, which was published as to catalyze the community's discussion on the processes to be adopted by RTs in order to perform their task.
		Opposite and contrasting views are offered by some participants, for instance: some consider that the methodology should have been more detailed whereas a participant qualifies the proposed methodology as being too prescriptive.
	'The Internet Society is pleased to see ICANN's timely action to implement this important component of the Affirmation of Commitments by launching the review process outlined in the AoC' (ISOC)	The proposals contained in the discussion paper, and the comments received will provide useful inputs to Review Teams in their effort to adopt and implement sound review practices.
	'The proposed Review Methodology appears sound in terms of identified tasks and the sequencing of tasks. The RySG agrees that the Review Teams are the leading actors of the review process and should be independent from the ICANN staff and ICANN Board' (RySG)	
	The discussion paper approaches governance issues 'from a too "academic" perspective without adequate regard for how the proposed process changes will be implemented in a practical manner' (BITS)	

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	On the other hand, a contributor expressed its concern about the suggested processes and calls for clarification on the methodology (APTLD), while another complains it is too prescriptive (RSG). Further details needed on the topics to be evaluated; there is a need to 'build theoretical frameworks for the review, indispensible to get buy in on 'the criteria for assessing performances against well-understood criteria'; this is vital to the success of the reviews. More work is needed to obtain an agreement on terms of the review, to get 'community agreement on what ICANN is accountable for and to whom' (ISOC)	
Adoption of Methodology and Terms of Reference for the Reviews	RTs should be able to select the methodology they believe to be suited for their assignment (RSG, GAC). Appropriate for RTs to adopt the reviews' Terms of reference, but 'only to the extent that review teams are given clear guidance at the outset for establishing the proper scope', definition of the Terms of Reference should be expanded to provide guidance for 'ensuring that the timelines and scope of the review teams are in keeping with the goals set forth in the AoC' (VS); in the same sense, another contribution underlines that RTs are to be provided with 'guidelines that establish clear objectives and, importantly, a specified and defined purpose for each and every review team so the reviews are efficient and productive.' (TAM) RTs should adopt methodology in an open process subject to public comment, should not be time-consuming (GAC). Once adopted by the RTs, the review process and Terms of Reference either are to be published online before the data gathering process starts (preferred option) or	Comments on this topic focus on six key aspects: • Autonomy of the RTs in the setting of their own review methodology • Appropriateness of providing RTs with a clear scope of work, as to ensure consistency with the requirements of the Affirmation, efficiency and effectiveness • Value of public inputs to the process of Terms of Reference setting • Publication of adopted methodology and Terms of Reference • Scope of review: the list indicated in the Affirmation should not be exhaustive • Need to achieve coordination, consistency among Review teams through exchange of information, data

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	included as part of the report (INTA).	
	ToR of review on Accountability and Transparency to include 'a thorough review of existing accountability mechanisms as well.' (RySG)	
	The areas of analysis identified for the review should not be understood as an exhaustive or final list at this stage (GAC; in the same sense TAM)	
	Information is to be shared among RTs as to achieve coordination, consistency (TAM)	
Indicators	In order to ensure the objectivity and acceptance of the report, the qualitative and quantitative indicators to be selected and used along the process should be objective, scientific, specific and balanced. A specific requirement which is demanded by many stakeholders ((GNSO, ICC, BITS, RySG). Furthermore, indicators and especially the quantitative ones should have their validity and flexibility tested before their adoption (ETNO). Indicators should be as objective as possible so as to avoid subjective interpretation, as well as should be developed by RTs via community inputs. Indicators ought to be identified in consideration of the specific roles that ICANN plays: i) coordinator of a bottom up policy making process; ii) private sector contractor managing contracts with private-sector and public-sector parties; iii) protagonist with unique, limited responsibility for the security and stability of DNS; iv) not-for-profit private sector organization (RySG).	Comments received widely support the methodological approach contained in the discussion paper, which recommends basing the reviews on a set of quantitative and qualitative indicators to be selected, and on further evidence already available.
		Some comments underline the importance for constituencies and communities to participate in the process of setting of indicators; a comment suggests that community discussion on indicators and other evaluative tools be based on a set of proposals to be firstly developed by RTs.
	First step in the review process 'should be the identification of objective and subjective performance measurement by the affected teams'. 'Perhaps the review teams should work directly with program managers on the	

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	ICANN staff to identify additional metrics and objectives but these should come first from those managers or team leads'. (ACT)	
	Specific evaluation metrics and standards to be developed (INTA).	
	RTs should present concrete proposals on indicators and other evaluation tools, for community feedback. (ETNO)	
	Constituencies and SO ought to help developing indicators and scope of the reviews' ToR. (NC, BITS –focus on community inputs)	
	Review should be based not only on indicators, but also on pre-existing documents, literature etc. (ETNO)	
	(Specific to the review on Accountability and Transparency) A way to 'evaluate accountability and transparency is to look at the process by which proposals are documented and made available for public comment, as well as the degree to which the subsequent comments were addressed and the eventual decisions were implemented as advertised in the final documents and plans'. The first RT should take on this task (ISOC).	
	Indispensable to set a well-thought-out performance measurement system, identifying goals with two criteria: 'they must be measurable and must be measures of success rather than effort. Far too often objective performance measures adopted by ICANN are virtually worthless measures of success such as spending a prescribed amount of money or hiring a prescribed number of staff'. The comment suggests a set of indicators to be used for the first review (Accountability and Transparency, please refer to the posted comment for full	

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	reference). (ACT)	
Data Gathering	Data collection needs to extend more to people and organizations who are not currently involved in the ICANN community. The external evaluator needs to be involved in the selection of suitable target groups. (NNET) RTs to have maximum flexibility in order to identify sources of data they wish to utilize, in an open process subject to public comment. (GAC) Outputs and outcomes of past and on-going processes should be used. Moreover RTs should seek community inputs during this stage. (GNSO)	Two comments received on this topic are complementary: RTs need to be as flexible as possible in identifying both their target respondents, and the source of the evidence that they need to gather. A third comment suggests for RTs to use the outcomes and outputs of past review exercises as a further input to their work.
Intermediate Analysis of Findings	Comments support the proposal in favor of an intermediate analysis of findings allowing public inputs (ICC, BITS). All RT meetings and conference calls related to the Intermediate analysis of findings should be broadcasted to maintain transparency (INTA).	The provision for a short phase devoted to analyze the intermediate findings from review and fine-tune the methodology before finalization of work was supported by some participants; a further comment suggested to broadcast the RT meeting organized to this scope, as to ensure transparency of review processes.
Established Rights	RTs to respect their mandate, to be instructed 'not to attempt to replace or mitigate the established rights, and processes and contractual agreements' between ICANN and its contracted parties. RTs to review furthermore how well ICANN has lived up to its contractual obligations. (VS)	
On the Dual Purpose of the First Review	The first review on Accountability and Transparency should have two purposes: 'it can assess existing mechanisms, but it should also establish a baseline for future reviews. Realistically, it cannot be an assessment of a completed task' (ISOC).	

2. Timeline

TOPIC	SUMMARY OF COMMENTS	ANALYSIS
Timeline for Applications of Volunteer Review Team Members	Highly impossible for SO/ACs to select their applicants by the deadline for applications (ALAC). Several contributors are convinced that the deadlines are too tight to achieve the steps required by the AOC (CNNIC, auDA, ccNSO, COA, NNET, GD, ISPCP). Issuing a call for applicants before the end of public comments is perceived as premature by some (COA), especially since SOs and ACs have not finalized their internal selection mechanisms (auDA, ccNSO, COA, GD) ICANN and SO/ACs need to clarify a the endorsement process of RT Member applications (CNNIC). A more appropriate deadline for submitting candidatures would be 12 April 2010 (GD). Timeline is aggressive, more time to be allotted for selection of RT members, including comments (INTA). The Call for Applicants to be reissued for further reviews when requirements and implementation processes have been adopted (ETNO).	Several comments underline that the timeline of the application process –particularly for the first review- is very tight; unfortunately this timeline is a direct consequence of the tight deadlines dictated by the Affirmation, which calls for several processes running simultaneously. However, an extension of the initial one-month application deadline has been organized, as requested by some community members. Meanwhile SO/ACs developed internal procedures for RT candidates' endorsement.
Timeline of the Reviews	The timeline of the reviews is very tight in consideration of their complexity and significance (ALAC, auDA, ccNSO, GNSO, ETNO, BBC, ISPCP). This might lead to a negative impact on the acceptance of the report by communities (ALAC). One should also consider the possible adverse impact of numerous rounds of public comments (auDA, ccNSO), more time needed for final consultation (BBC). ETNO recommends to perform the first 'Accountability and Transparency' review as a 'pilot process' with a second review starting in September 2011 (the draft paper suggests to start the second review in January, 2013) (ETNO). 'The possibility of an additional review being required within a shorter timeframe may require discussion upon its completion' (ISPCP).	The timeline of the whole review cycle –which is dictated by the Affirmation of Commitments' requirements-, is considered very tight by several contributors; one comment requires additional time for the final consultation, while another comment focuses on the adverse impact of the many rounds of public comments. The two proposals for a second review on Accountability and Transparency to be launched before its planned date are compatible with the content of the Affirmation; the impact of such a different timing on organizational fatigue and costs shall be however assessed, and a cost/benefit analysis performed.

3. Review Teams' Size, Composition and Term

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Team Size and Composition	According to many contributors, teams larger than what is proposed would better represent ICANN's constituencies and reflect geo and gender diversity (ALAC, ICC, GNSO, ETNO, COA, CNNIC, INTA, RySG, ISPCP, GD, TAM). Here is an array of size proposals submitted by different contributors: 12 Members (ALAC); 11 to 13 members (TAM); 12 to 15 members with GNSO being allocated 2 to 3 seats in each team (GNSO; COA, proposing 3 to 4 GNSO members per RT; ISPCP, proposing 4 GNSO seats in the first review, 2 in Competition Consumer Trust and choice, and a direct representation in Security Stability and Resiliency). ETNO puts forward a different composition for respective reviews: 14 to 19 for the first review, 9 for the second and fourth reviews, 8 for number 3. Please refer to the individual comments for further details). Regarding the RT on Accountability and Transparency, the GAC believes the governmental participation should not be restricted to the GAC Chair and to the US government. Besides, the GAC strongly encourages representation of all regional interests within governmental representation and underlines the need to have international credibility. 'If necessary, the number of participants should be increased beyond seven or eight to ensure the community's opinion is recognized to serve the overarching goal of balance, diversity and expertise' (BITS) Small RTs are not consistent with the participatory approach suggested by the discussion paper; each SO/AC should put	The discussion paper suggested a composition for RT which leads to a highly controversial debate; in particular, the proposal to keep the RT size small was contested by several contributors, and a great number of comments propose a larger size, in particular for the Accountability and Transparency RT. Larger size teams are considered to better reflect the diversity of the different components of ICANN, and some offer that larger team can be divided into smaller, thematic sub-teams to increase efficiency. Some comments underline the importance to consider gender and geographic diversity in the making of the RTs, but they add that this aspect should not become predominant and that no rigid quotas should be fixed. Finally, one contributor commented about the possible difficulty to find the appropriate, needed skills if restricting the search for volunteer RT members only to the ICANN SO and ACs.

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	forward 3 or more members to the RTs (APC).	
	Larger teams would have the benefit to offer major chances to compensate for less active members (ALAC, which adds that the relative composition suggested by the discussion paper is 'a good start', but somewhat sparse).	
	On the one hand, to keep review teams small is perceived as sensible but on the other hand, it is underlined that the proposed team size is too small to achieve balance, diversity and expertise (ICC); moreover large teams can be divided in smaller sub-teams with different thematic focus (COA, ISOC).	
	Finally, a contributor believes the RT size and composition decisions should be left to Selectors. (RSG)	
	Although generally supported, the need for selectors to factor in gender, geographic and skill-set considerations will complicate efforts in achieving representation of ICANN communities (auDA, ccNSO). ETNO comments that no rigid quotas should be set to factor in geo and gender diversity. In the same sense, gender and geography should be considerations, but not a determining factor. (GD)	
	Constituencies should first work through SOs to develop a slate of potential candidates. (NC)	
	Once quotas per each SO/AC are defined, selectors may have a right of veto on a proposed candidate up to two times; as an alternative, SO/AC-specific pools are to be established, and Selectors can choose the most appropriate candidates. (ETNO)	

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	Restricting the RTs to SO/ACs representatives (even with the additional independent experts) will not enable the 'views of the internet community to be reflected'; it 'will probably prove difficult to find reviewers from within these groups who will necessarily possess all the required skills' (ISOC)	
RT Members Selection: Skills, Profiles	Need for a transparent process for the selection of RT members by Selectors (ISPCP, INTA), a list of specific selection criteria should be established for applicants (GNSO – ICC), and ICANN should engage in dialogue with stakeholders on how the RT members are selected. Comments are perceived as being ignored which discourages participation and reduces transparency; there must be a process in place to encourage, reviewing and to take into consideration and incorporate public comments regarding the composition of review teams (INTA).	As mentioned in the discussion paper and in application of the Affirmation requirements: 'Any final decision on size and composition of the review teams is to be taken by the three Selectors'. Some participants commented that processes and criteria to be adopted by the three Selectors are to be transparent, and their choices on the SO/AC that are relevant to each review are to be justified.
	Further clarification needed on processes for selecting RT members so as 'to ensure they are representative of the community's opinion' (BITS).	Another contributor focuses on the need to ensure community that their comments on the composition of RTs will be taken into account.
	Relevance of different SO/ACs to each review must be explained when participation of a given SO/AC in a specific review is excluded (RySG).	One participant offers the view that the key selection criteria should be ICANN experience and expertise in the review topic, while another contribution underlines the need to involve individuals that have not been necessarily involved in ICANN in the past.
	ETNO suggests: 'a broader ICANN experience and expertise in the discipline of the review topic' should be the key selection criteria whereas the GAC believes efforts should be made so as to incorporate expert stakeholders who have not necessarily been actively involved in ICANN, and that all RTs need to be 'able to proceed in a timely and efficient manner' (GAC).	A contributor focuses on the profile of RT Members, offering the view that the selection of too busy and high profile members may be counterproductive in terms of time availability and risks of influencing the decision making processes. This comment on time availability somehow links up with the contribution that underlines the need for RTs to work timely and efficiently.
	A comment underlines the fact that the RTs should not be entirely composed of busy high profile members as they are on very tight schedules and might exert influence on decisions due to their positions (SSK).	Further contributions were received on respective roles of all those involved in the review mechanisms; and on the possibility to assess performances of the RT members.

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	Important to clearly understand and separate respective roles of RT Members, experts and consultants (ISOC); finally, ALAC is also in favor of an evaluation mechanism of RT members' performance and participation.	
RT Term	The ICC supports the single membership principle for RT members. In the same sense, another comment suggests that it is necessary to take steps to avoid 'forming a clique of "review regulars"', perhaps setting limits to the number of times an individual can serve as a RT member (ISOC). To be clarified: is a single RT to serve for several reviews, or is each review to be served by a different RT? (preferred option) (VS). The no-dual membership is questionable, as in the creation of RTs the key issue is to have participation of knowledgeable community representative. 'In some instances, this may require individuals to serve on multiple review teams' (BITS).	The discussion paper proposed the adoption of a single membership principle for RT members; furthermore, it suggested the setting of different, review-specific Review Teams. These suggestions were supported by some contributors, while another comment offered that this principle can be questionable, in consideration of the possible difficulty to find suitable volunteers in an adequate number, so that serving in multiple reviews can become an option.

4. Selectors, Chairs, RT Members, Independent Experts

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Identity of Selectors, their Number	Increasing the number of Selectors for each RT from two to four, with extra positions filled by NomCom members or other independent 'players of the industry' (APTLD). There must be a more transparent process for how Selectors are chosen (INTA)	The identity of the three Selectors is contained in the Affirmation of Commitments, which does not provide for additional individuals serving in the same position.
Role of RT Chairs	Are RT Chairs to be 'administrative' ones or active members of RTs, and what are their powers? (ALAC)	The draft ToR for RTs contained in the discussion paper suggests 'All review team members, including the Chair, have equal voting rights'. In the process envisaged by the discussion paper, ToR are

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		to be adopted by the RTs at the beginning of their activity, so that even voting rights of the Chairs are subject to RT appreciation.
Role of Board Chair and CEO within RTs. *Independency of RTs*	Selectors shall not be 'involved in the decision-making process and will not exert influence on the review teams' decisions' (auDA, ccNSO); once 'the team members have been chosen, the selectors should have no more influence than any other member', should serve primarily as observers and liaisons (GD). It is inappropriate for Board Chair and CEO to be regular members of the RTs as reviews are about their operations (ALAC). It is suggested for them to be non voting members of the RTs. (ALAC, INTA) Given the nature of the reviews (to check whether and to what extent the goals of the Affirmation have been reached), the composition of the RTs (participation of the three Selectors, RT members representing the SO/ACs), the complexity and interrelations with community and the Board, one cannot assert absolute autonomy of Teams. This however, should not affect the review's legitimacy. (ETNO)	Two opposite views are offered to the consideration of the Selectors and the RTs: while some suggest that Selectors shall not have voting rights because of their implication in the life of the Organization, another contributor does not object to grant them voting rights, based on the assumption that independency cannot exist in absolute terms in consideration of the RT composition and the nature of the reviews.
Eligibility to Serve as Members of RTs	ICANN Board members outside of CEO and Board Chair should not be eligible to serve on RTs because of a potential CoI situation (VS, NC), staff should minimize its involvement (NC)	Are Board Members eligible for RT membership, and what profile should staff have in the Affirmation reviews' process? Three contributors offer their contribution on these issues.
Role of RTs	The Affirmation identifies expectations of involvement of senior-level engagement in the RT work. RTs should primarily provide steering an oversight of the work to be conducted by an external evaluator. RT Members 'should not be actively involved in designing data-gathering tools,	This comment links up with the proposal –expressed by the same contributor- to entrust an external evaluator with the carrying out of the Affirmation reviews; see below, Section 5.

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	or in carrying out the data-gathering or analysis.' (NNET)	
Independent Experts	In order to achieve transparency, independent experts and their selection criteria should be identified before the establishment of RTs (ICC); RTs to have a specific and determinative role in the identification, vetting and selection of independent experts (RySG); there is the need to ensure transparent selection processes (ISPCP, ISOC, BITS).	This set of comments focuses on the value of the contributions of independent experts to the review processes, their relative number in relation to the 'regular' RT members to be supported by SO/ACs, and their criteria of selection.
	ICANN insiders tend to protect the interest of their constituencies. They 'also have limited external views'. External views are to be brought into the RTs by independent experts, so 'there should be more Independent Experts in the team than' SO/ACs representatives (SSK, same opinion expressed by SS) Besides, SO/ACs should be enabled to suggest Independent Experts for Selectors' consideration (GNSO).	On the latter aspect, some underline the need for transparent selection process, with RT participation and the possibility for SO/ACs to provide inputs.
	In the same sense, a further comment underlines that a balanced RT with 'sufficient outside representation and skills' would allow undertaking a meaningful, unbiased review; this would counter-balance the risk of having RT Members bringing their individual commercial or political interests to the evaluation process (INTA).	Other comments underline the value of independent experts to somehow counterbalance the composition of RTs, and one comment suggests the areas of expertise to be addressed through the integration of external experts in the Accountability and Transparency RT.
	'We welcome the inclusion of independent experts in the suggested composition of most of the RTs' (NNET); more independent experts should be included, consistent with the eventual definition of public interest (ISOC).	
	To integrate 3 independent experts in the first RT, with the following expertise: i) political theory with regard to the governance of complex eco-systems; ii) cultural anthropology; iii) institutional economics. From the public interest perspective, consider also to include stakeholders	

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	from private sector, civil society and the international community (APC).	
Independency, Representativeness, and Communication of RT Members with their SO/ACs	Non-governmental members should demonstrate that they have no conflict of interest on the subject of the review they are involved in, so as to avoid allegations of capture (GAC). In the same sense, a further comment underlines that the review process should be treated and perceived as independent from ICANN (MIG). It is agreed that RT members should not represent particularistic interests and protect neutrality and ICANN's collective good; however, communication and coordination mechanisms with 'sponsoring' communities should be put in place so as to allow interaction with RTs (GNSO, ETNO, ICC). Mechanisms of protection against lobbying behaviors should be put in place (auDA, ccNSO) as RT members are to remain' truly independent and credible' in the eyes of the global community in order to achieve credibility and legitimacy. Indeed, independence of RTs must be respected and verifiable at all times (RySG) and this broad business representation principle is critical. Endorsement by SO/ACs of their candidates does not go hand in hand with the advocacy of the SO or ACs' positions, and no direct links should be established between stakeholders/ constituencies and specific seats within each RT (ICC). Inputs by communities to RTs are to be provided in good faith and with prudence, and the adoption of reasonable rules such as the Chatham House rules are suggested (GNSO). To the same end, other contributors suggest that a conflict of interest prevention policy should be adopted by RT members (INTA, VS).	There is an agreement on the need for experts to be neutral, and to not represent the positions of their 'sponsoring' SO/AC, a point that is stressed in the discussion paper. Some comments underline however the importance for RT Members to liaise back with their SO/AC so as to provide for the possibility to interact with RTs. The need for mechanisms of protection against lobbying risks is underlined, such as the adoption of Chatham rules or of CoI prevention rules. A different view on neutrality is offered by another contributor (see 'Independency of RTs').

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	The notion of independency is controversial for ETNO, which does not believe that reviews can realistically achieve absolute neutrality (please refer to 'Independency of RTs').	

5. Support to Review Teams

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Support to Review Teams	The establishment of support teams for targeted assistance to RTs should be considered to ease the burden on team members and staff (GNSO). ALAC remarks the lack of staff support. Even though this could raise 'process management issues' (GNSO), the appointment of alternate RT members should be considered (ALAC, GNSO). RTs do need a supporting function to carry out this task which staff could fulfill within a clear mission designed to facilitate the RTs' work; this task does not necessarily need to be assigned to an external consultant. If a consultant is to be hired, her/his task should be to support the RTs (ETNO). According to a contributor, the use of consultants should be eliminated; this will streamline the review processes, make them more consistent with the Affirmation, and reduce the budget (RSG). The GAC on the other hand, suggests this decision should be left to each RT. Moreover, it stresses the need to have reports solely written by the responsible RTs and puts forward that RT members might offer supporting services on their own or through their respective organizations (GAC). Support for the idea of hiring a consultant, but this 'has to be on the basis that their role is to facilitate and support the process in	There is a general acknowledgement of the need to provide RTs with supporting functions; some propose (or seem to suggest) a higher involvement of staff in this role, while others seem more inclined to envisage delegating this activity to external bodies/groups, to RT Members or their alternate, or to the organizations of the RT Members. The majority of comments received on the role of the external consultant are consistent with what the discussion paper proposes: 'The consultant shall assist and facilitate the work of the review team by providing technical expertise in evaluation techniques (selection of the indicators, design of the data gathering tools, methods of data analysis, etc.), and in any other task as directed by the review team. The consultant shall abstain from formulating personal judgments and from influencing the deliberations of the review team, but shall support the decision-making process of the team by ensuring that conclusions are based on relevant and significant evidence. The consultant, who shall be selected through open procedure, does not have voting rights.' A further and different view suggests eliminating the hiring of an external consultant acting as facilitator of the RT works, while another comment recommends to leave the decision on his/her hiring to each RT.

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	conjunction with the Review Team, not to perform the evaluation' (ISPCP); her/his role should be as 'facilitator for the Review Teams who provides data concerning evaluation methodologies and processes' (RySG).	
	'We welcome the concept of employing an External Consultant'; (s)he should be a 'well established and resourced, professional organization, with a track record in international evaluation and experience in working with no-for-profit and public-interest bodies' (NNET).	
	The consultant is to be hired through an open tender process, consultants can be useful from a methodological perspective (ISOC); however, another participant underlines that the selection process of the consultant should be shorter; once selected, the identity of the consultant has to be published, and an efficient objection process has to be put in place. 'In the event that a member of the community believes that the chosen consultant has an undisclosed conflict of interest which could affect the consultant's objectivity'. Explanations to be provided on use of consultants' outputs and their coordination (INTA)	

6. Budget

TOPIC	SUMMARY OF COMMENTS	ANALYSIS
Budget	Budget increasing due to larger RT size 'is a reasonable cost for verifying ICANN's effectiveness in the eyes of the world' (ALAC); it is 'necessary to fulfill the AoC mandate and to ensure high-quality and broadly supported outcomes' (GNSO). Appropriately the independent experts other than the facilitators are not remunerated; however, there should be a back-up plan in the event of a shortage of volunteer experts (auDA, ccNSO).	As mentioned in the discussion paper, the two elements impacting the most on the reviews budget are the size of the RTs and the number of f2f meetings. Once these two elements decided, staff will be able to prepare a more accurate budget forecast.

7. Review Teams' Style of Work

TOPIC	SUMMARY OF COMMENTS	ANALYSIS
RT Meetings	It is unclear whether there will be both closed and public (broadcasted) RT meetings (ALAC). Both closed and broadcasted meetings may be required; Chatham rules are to be adopted by RTs when needed (GAC). RT meetings should not only coincide with ICANN meetings (GAC).	A few comments were devoted to discuss the need for both public and closed RT meetings, and the coincidence between RTs and ICANN's meetings.
RTs' Working Language	There is a need to specify that English will be the working language of RTs. However it should be underlined that the ICANN review process will integrate (and welcomes) foreign languages thanks to timely translations and acceptance of comments. (ALAC)	In application of the principle that ICANN's WGs' activities are conducted in English, the working language of the RTs will also be English. The budget impact of a different solution would be unsustainable. Outputs of the RTs will be translated into the 5 further UN languages.
Decision-Making	A definition of the RTs' consensus-based style of work should be provided (GNSO). Even though in favor of consensus-based work, this should not be a strict rule. Other decisions can be taken by qualified or simple majority, and this needs to be appropriately documented (ETNO). RTs should work on developing consensus; where there is an un-reconciled minority view, this should be made clear in the final report (NNET).	These comments focus on the proposal – contained in the discussion paper – that style of work of RTs should aim to reach consensus; in absence, majority decisions are proposed, with mention in the RT reports of dissenting views. This overall approach is basically endorsed by the comments received, with the specification that further detail is to be provided on the definition of consensus.
Public Consultations during Reviews	To reduce the number of consultations throughout the process to one plus the final consultation on the review report (NNET). Review-related public comment periods should be standardized by making them no shorter than 30 days (RSG).	A few comments were received on the length of the public comment periods (it is a common ICANN working practice to have public comment periods lasting at least 30 days). Other contributors focused on the number of the consultations foreseen in the discussion paper and on the need to provide for additional mechanisms to collect community inputs.

TOPIC	SUMMARY OF COMMENTS	ANALYSIS
	Comment periods must be long enough for stakeholders to 'consider carefully and comment on the questions raised' (INTA); public comment processes –especially in the first review- are tight, extra mechanisms to collect community input will be needed (TAM).	

8. On Public Interest

TOPIC	SUMMARY OF COMMENTS	ANALYSIS
Public Interest Definition	The issue of public interest is of a primary importance, as with the signing of the Affirmation of Commitments, ICANN commits to ensure 'that the outcomes of its decision-making will reflect the public interest and be accountable to all stakeholders'. No definition of public interest is provided; this can induce the jeopardizing of RT's efficiency as this lack of clarification could 'dilute' their ability to perform 'meaningful and focused reviews' (ICC). Moreover, the concept can convey a different meaning according to respective groups (ALAC). NetChoice offers some thoughts for further discussion: 1) the 'public' part of public interest is 'concerned more with users and registrants than with contracted parties', deeply involved with ICANN; 2) Public interest is broader than 'just a secure and stable DNS', and touches upon Availability and Integrity to be spelled out as essential and measurable qualities (NC, agreement from IP, AOL, CNNIC). Further agreement was expressed by IU, focusing on the importance to set standards on Availability and Integrity (IU). A contribution agrees on the importance of the discussion, underlining that the nature of users (applications in their attempt to resolve identifiers) is not to be forgotten. Contributions to the definition of Availability and Integrity are offered (EBW). There is the need to define public interest in the ICANN context, to be used consistently across the RTs and in ICANN's functions and activities (ISOC, TAM); it cannot be narrowed down to the concept of 'client satisfaction'. This process must	There is a wide awareness of the importance of defining the concept of 'public interest', which is at the core of ICANN's obligations. There are several comments requiring the involvement of the community in the definition of this concept in the ICANN context, as this would make possible the carrying out of meaningful review exercises.

TOPIC	SUMMARY OF COMMENTS	ANALYSIS
	be undertaken through public consultation and this before launching the first review. (ISOC)	
	It is important to hear the voices also of those organizations representing 'public interest' that are not active contributors to ICANN (ex.: need for ISPs participation in the definition of standards on Availability and Integrity) (NAJ).	
	The recognition of ICANN new role as a global public service provider is critical; this includes obligations to all global internet users, competition and fair play to all its constituents (MIG).	

9. Other Issues

TOPIC	SUMMARY OF COMMENTS	ANALYSIS
Whois Review	• To adequately use the available time to solicit input on team's composition and Terms of Reference of the review; • Overall suggested RT size is not a major constraint, but composition shall reflect the fact that Whois policy applies only to gTLDs, so a larger GNSO representation is to be achieved; • Perspectives of regular consumers of Whois data (intellectual property owners, anti-phishing and anti-fraud investigators, security researchers, consumer protection advocates) shall be heard by the RT (COA).	A different and more relaxed timeline for all reviews following the first one (Accountability and Transparency) will be adopted, because the Affirmation deadlines allow for that. All other suggestions are passed on to Selectors of the Whois RT for their consideration.
Contributions to the Analysis to be performed by RTs	*Some very specific comments provide a contribution to the substance of the work that will be performed by RTs; in particular:* • On the Competition, Consumers' trust and Consumers' choice review: see BBC comment; • On the Security Stability and Resiliency review: see BITS comment; • On the Accountability and Transparency review: see BITS comment; • On Whois policy review: see BITS comment.	

TOPIC	SUMMARY OF COMMENTS	ANALYSIS
IANA	The Affirmation is not about IANA; however, ICANN failure to achieve Credibility and Legitimacy would create a serious obstacle for ICANN to replace the present IANA management contract with a new one (MIG).	
Layout, Editing	To reorder Section 1, to make the whole text more user-friendly to the non-ICANN world (INTA).	
Coordination of Organizational Reviews and Affirmation Reviews	As many reviews are being conducted, reviewers should try to avoid confusion, duplication of work and adverse impact upon stakeholders. Proposal: design a chart that would contain reviews' terms of reference and schedules of the year to come. Board Review WG's proposal not to undertake structural changes at Board prior to 2014 is not consistent with the requirements of the Affirmation reviews (auDA, ccNSO).	There is some awareness of the need to avoid duplication of review activities and for the RT to consider work that is ongoing in order to conclude on their mandate. The Organizational Review website is being restructured, and will certainly contain charts allowing users to better understand the on-going and future work.

Posted: February 17th 2010