**Non Commercial Stakeholder Group (NCSG) Submission to the Second Accountability and Transparency Review Team (ATRT2)**

NCSG appreciates this opportunity to submit its comments to the second Accountability and Transparency Review Team (ATRT2). We hope to be able to formulate more detailed responses to the very thoughtful questions posed to the community by ATRT2 shortly; for this particular public comment process, however, we thought it expedient to bring up certain points to ATRT2’s attention.

In a public comment submitted in 2010 to the first Accountability and Transparency Review Team (ATRT1), NCSG had described the group’s concerns on a number of issues. These included improving accountability and transparency in both Board and staff decision-making, particularly with respect to Recommendations 8, 10 and 20 made by ATRT1.

In this regard, NCSG is pleased to note that some improvements have been made on these fronts. Specifically, there have been timely publications of Board decisions and the rationale and explanations that have accompanied these. We commend ICANN for these efforts.

Nonetheless, NCSG continues to be concerned at certain trends and behavioral tendencies that seem to threaten ICANN’s much-lauded multi-stakeholder (MSM), bottom-up, consensus-building model of community participation and decision-making. Two recent examples highlight this risk clearly.

The first concerns the Government Advisory Committee (GAC) Communique issued at the end of the Beijing meeting. The substantive recommendations contained within that Communique were the subject of a specific public comment request, to which NCSG and several of our members have submitted comments. As such, we do not comment on the merits of those recommendations here. We wish to state, as strongly as we can, however, that with respect to the process issue, the timing and nature of those recommendations reflect at least two features of the current ICANN MSM model: (1) the special position – and hence privileged advantages – of the GAC amongst the ICANN community; and (2) the result that the Generic Names Supporting Organization (GNSO) – the main forum for policy discussion as regards generic top-level domains (gTLDs) – can be disregarded and possibly even bypassed. When combined with the reality of politicking, lobbying and privileged access by a connected few to influential members of the GAC, the MSM model looks even less stable and more unbalanced.

As volunteer members of the GNSO community, it is discouraging (to say the least) to have worked on several iterations of the new gTLD Applicant Guidebook (AGB), discussed consequences of previous GNSO policies extensively in Working Groups, at the GNSO Council level and throughout the community, only to see the GAC at the very last minute issue entirely new substantive measures that could bring the new gTLD program to a standstill.

While we are encouraged by the Board response of 6 June 2013 to certain points in the GAC Communique, we continue to be concerned about the broader implications of the GAC’s actions. We therefore urge ATRT2 to examine the broader issue of the role of the GAC within the ICANN community, with particular reference to the fate of and need to balance the MSM model in order to ensure not just its success but continuing trust from the rest of the community.

The second illustration relates to the recently released Board response to the Reconsideration Request filed by the NCSG regarding the late decision to expand the Trademark Cleariinghouse (TMCH) to accommodate 50 variants of previously abused names. Without going into the merits of such an expansion here, we wish to state our belief that the Board’s response, or rather, the manner in which it was couched and the rationale which the Board (through its representative sub-committee on the matter) chose to employ, was such as to land yet another blow to the vaunted MSM model. Other members of the ICANN community who may not have agreed with the NCSG’s substantive position on the TMCH+50 issue also thought that the Board could have chosen a number of different ways to craft its response, achieving the same substantive result without threatening the MSM process. While NCSG reserves its rights to pursue any other means available to it under ICANN’s processes to continue engaging with the ICANN Board, we respectfully request ATRT2 to take a look at this incident and determine if the response received by the NCSG to its Reconsideration Request goes against ICANN’s principles of accountability in terms of its effect on the MSM model.

Again, we respectfully urge ATRT2 to take an in-depth look at the MSM process and model, particularly in relation to its actual operation within the GNSO community, vis-à-vis the GAC and the Board. We believe it is critical that these imbalances and threats be addressed imminently if ICANN is to retain the trust of its many stakeholders and volunteers.

Respectfully submitted,

The NCSG Policy Committee (on behalf of the members of the NCSG)