



→ ATRT2 review team

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Norwegian comments on the questions to the Community on Accountability and Transparency within ICANN.

On behalf of the Government of Norway the Norwegian Post and Telecommunications Authority welcomes the opportunity to provide comments in relation to the work of the Accountability and Review Team number two (ATRTR2).

Our answer to the *questions for the ICANN Community on the impact of previous reviews and inputs for the ATRTR2* are focused on what we think are the most important issues from a governmental perspective.

General remarks to the overall role of ICANN:

- We do believe that conducting professional reviews and effective implementation of recommendations from past reviews, with the mandate in the Affirmation of Commitment (AoC), is paramount for the legitimacy of ICANN as a multi-stakeholder body working in the global public interest. The mandate of ICANN originated in the Articles of Incorporation and provision in the ICANN Bylaws. This is often lost track of when conducting day to day business and policy development in the ICANN Community. It is essential for the ATRTR2 to include in the review how the ICANN Board is fulfilling their overall task to act in the public interest and respect international law, relevant conventions and relevant local law. As we have seen the past months working on the issue of new gTLDs, respect for national and regional public interest and policy will be critical for the continued trust and support for ICANN and the multi-stakeholder model.
- In the Norwegian comments to the draft recommendations of the ATRTR in November 2010, we made reference to the President's Strategy Committee work from 2009 and stated support for the internationalization of ICANN. ICANN is a nonprofit public benefit corporation established in accordance with Californian Law, but does have an international role to serve the global community. This does not mean serving only the ICANN community, but the global Internet community. We therefore welcome the recent initiative in ICANN for internationalization of ICANN, and think the ATRTR2 should focus on how ICANN is further planning to make improvements in this area.

Comments on ensuring accountability, transparency and the interests of global Internet users:

- Our impression is that ICANN has improved in their interaction and communication with the ICANN community in the past three year. However, we don't experience that the interaction and public input has increased from outside the ICANN community. We suggest that ATRT2 should focus on how ICANN can improve in this area.
- At several meetings the past three years, ICANN's conflict of interest policy and ethics has been discussed in the GAC, and the GAC has been asking the ICANN Board for update on this work. The implementation pace has been very slow and we believe the ATRT2 should evaluate the ICANN Board performance in this area.

Comments on the role and effectiveness of the GAC and its interaction with the Board:

- It is very important for governments using substantial resources participating in the GAC, to see that the ICANN Board actually ensure effective implementation of GAC advice into policy. In relation to the ATRT recommendation 11 and 12 of 2010, ICANN has established processes on how the ICANN Board receives and handles the GAC advice. While recognizing that having a track record on how the GAC advice is being processed is helpful and essential, it is the actual implementation of GAC advice into policy that is of greatest importance. We think the ATRT2 should evaluate Board performance in relation to this issue.
- Our experience is that the GAC advice to the ICANN Board has been moving in the direction of being more detailed and operational then before ICANN started to go deep into the new gTLD process. We believe that the GAC advice in most cases should be kept to the level of principles. One good example is the GAC principles regarding new gTLDs from 2007 including the protection of geographic names in paragraph 2.2. What we experienced was that the ICANN Board did not interpret this advice and using it when developing the Applicant Guidebook. The GAC then saw the need to provide more detailed advice to provide further guidance on the principles. While recognizing that the ICANN Board and the GAC had much good interaction during this difficult process, we believe that we must expect a high level of expertise and quality of the ICANN Board, to be able to analyze principle advice and implement this into policy. This issue also has relation to the question on Board performance, quality and skills set. It is the ICANN Board that does make decisions, and the Board members should hold the level of expertise to take the responsibility for implementing principles into policy. This is something we would like the ATRT2 to focus on.

With regards

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Director General