Thomas Rickert

León Sánche

Mathieu Weill

Co-chairs of the Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability)

June 3, 2015

**Re: Response by CIRA to the Cross Community Working Group (CCWG) On Enhancing ICANN Accountability Public Consultation on the Draft Proposal**

The Canadian Internet Registration Authority (CIRA) is the private, not-for-profit corporation responsible for the operation of the .CA country code top-level domain. CIRA is a member of the Country Code Names Supporting Organisation (ccNSO) and a member of the Council of European National Top Level Domain Name Registries (CENTR). I welcome the opportunity to comment on behalf of CIRA on the CCWG's draft proposal.

I would like to thank the members of the CCWG for all of their hard work and dedication in this important process. I can speak from personal experience when I say that dedicating the considerable time required by an initiative such as this while remaining involved in one's 'day job' can be very challenging.

I commend the CCWG for addressing the dependencies between the IANA stewardship transition and enhancing ICANN accountability processes identified by the CWG in its April 15, 2015 letter. As these two processes are inextricably linked, it is critical that the mechanisms and processes identified by the two working groups integrate seamlessly.

Overall, this document provides a comprehensive approach to enhance ICANN's accountability. The CCWG has done a good job of identifying the standards by which, and to whom, ICANN should be held accountable. However, while I believe enhancing the structures and mechanisms to ensure accountability and transparency are important, trust in an organization is only truly possible when accountability is 'baked in' to its very culture. I urge the CCWG to explore tools that would enable an ICANN culture that takes accountability and transparency as the starting point for its activities, and not added as a mandatory component to meet obligations set out by the community.

The CCWG has identified four building blocks that would form the accountability mechanisms required to enhance ICANN's accountability.
1. Principles that form the Mission and Core Values of ICANN.
2. The Board of Directors.

3. An empowered community.
4. Independent appeal mechanisms.

I believe this is the right approach to structure the work of the CCWG, however, I would like to highlight a few specific concerns regarding the draft proposal. CIRA will submit a more detailed commentary on the revised draft during the second public comment period.

**Principles that form the Mission and Core Values of ICANN**

The CCWG recommends revisions to the ICANN's bylaws to clarify the scope of the organization's mission and policy authority, including the incorporation of key components of the Affirmation of Commitments. I believe the introduction of specific 'fundamental bylaws', while limiting the Board of Directors' ability to modify these bylaws may be effective as a check against mandate creep on the part of the organization.

**An empowered community**

Central to the mechanisms identified by the CCWG's proposal is an empowered community. While I agree that the specific community powers identified (the ability to recall individual board members, 'spill' the entire Board of Directors, review and revoke ICANN budgets and strategic/operating plans, and amend the fundamental bylaws) are important, I would like to share a few concerns about the proposed new structure that would see the SO/ACs as ICANN members (referred to as the Reference Mechanism).

As I understand it, the Reference Mechanism involves the SO/ACs forming parallel unincorporated associations (UA), in order to have the power under California law to enforce the accountability mechanisms as identified in the CCWG proposal. Otherwise, the structure and functioning of the SO/AC's could remain unchanged.

A considerable number of ccTLD registries are operated by government bodies, and many of those are members of the ccNSO. As the ccNSO is a committee organized and recognized by the ICANN bylaws, its members are not required to enter into an agreement outside the parameters of the bylaws, thereby enabling their full participation in the ccNSO's activities. I am concerned that the creation of a formal legal association could result in some governments to pause before joining. I appreciate that it would be possible for such governmental agencies not to join the UA, but could this potentially create an organization which might be seen to be less open then the current ccNSO? I encourage the CCWG to examine the impact of a member-based structure on the global ccTLD community to ensure it is inclusive of all voices in the ccTLD community.

The executive summary of the proposal explicitly states, "No third party and no individuals would become members of ICANN." While I agree that neither third parties nor individuals should be granted 'membership' status, I do believe that ICANN has been enriched by the participation of non-SO/AC aligned participants, and I would like assurances that these important voices will not be diminished

should a membership-based model be adopted. Simply put, I would not like to see accountability come at the expense of expertise. With regard to the role of governments, I agree that the GAC should continue in an advisory role. I would prefer to see a model that would ensure that GAC advice, when backed by consensus, is given due consideration, and if rejected, is done so in a justifiable, transparent and open manner.

Finally, while I appreciate the assurances that the work of the SO/ACs would continue fundamentally unchanged, I would like to better understand whether the proposed model would result in additional time commitments on behalf of members.

**Independent appeal mechanisms**

In general, I agree that the powers of the IRP should be enhanced. I would support an IRP that is independent of ICANN, low cost has decisions that are binding, and is streamlined in its processes. I would also like to go on record as stating that any proposed appeal mechanism should not include ccTLD delegation and/or re-delegation issues.

In terms of process, I expect that the second draft proposal that will be posted for public comment will include timelines, and that those timelines will align with the work of the CWG. I look forward to reviewing the second draft CCWG proposal.