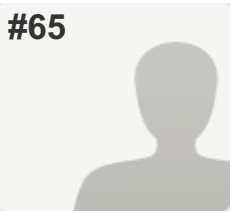


#65



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Tuesday, December 01, 2015 8:11:04 PM

Last Modified: Monday, December 21, 2015 10:24:07 AM

Time Spent: Over a week

PAGE 2: Personal Information

Q1: Name Eleanor Bradley, Chief Operations Officer

Q2: Affiliation NominetUK, , the .uk ccTLD

Q3: Responding on behalf of Nominet

PAGE 3: Recommendation 1

Q4: Is establishing an Empowered Community for enforcing Community Powers a solution that is acceptable to you?(Please see Annex 1 - Recommendation #1: Establishing An Empowered Community For Enforcing Community Powers for more information)

Yes, I support this recommendation.,

Comment

Nominet is neutral over the creation of a Sole Designator. As described in the proposal, it would appear that the Sole Designator model provides the necessary enforcement mechanisms.

PAGE 4: Recommendation 2

Q5: Is empowering the community through consensus: engage, escalate, enforce a solution that is acceptable to you?(Please see Annex 02 - Recommendation #2: Empowering The Community Through Consensus: Engage, Escalate, Enforce for more information)

Yes, I support this recommendation.,

Comment

Nominet welcomes the escalation process: as identified in our comments on previous drafts, we strongly believe that the most effective approach to good governance is to seek to resolve issues. We believe that the process outlined in the proposal is likely to improve outcomes by helping to develop a framework for cooperation based on better mutual understanding of concerns. The proposal's approach also benefits the community in ensuring all SO/ACs understand the issues clearly and there is good opportunity to re-build trust between Board and community. This approach should ensure that full consideration is given before applying enforcement measures, which (because of their nature) really are the ultimate recourse to an irredeemable breakdown of trust between the Board and the community. As indicated in the proposal, some more thought needs to be given to thresholds (Annex 2 pp 11-12). We accept that this could be finalised during the implementation process. In particular, where a SO/AC has not voted, we could recognise a difference between a clear decision to abstain (for example because the organisation does not believe that it has the right to intervene on that issue) and cases where the SO/AC was unable to agree on the action to take. In the former case, the abstention could lead to lower absolute thresholds. In the latter, the lack of a vote might indicate a serious split of views in the community.

PAGE 5: Recommendation 3

Q6: Is redefining ICANN's Bylaws as 'Standard Bylaws' and 'Fundamental Bylaws' a solution that is acceptable to you?(Please see Annex 03 - Recommendation #3: Redefining ICANN's Bylaws As 'Standard Bylaws' And 'Fundamental Bylaws' for more information)

Yes, I support this recommendation.,

Comment

We believe that the proposed fundamental bylaws are appropriate. The fundamental bylaws could prevent necessary corporate reform, for example where mechanisms are not working properly. Given the basis for reaching agreement to reform these bylaws using the empowered community process, the risks are possibly low.

PAGE 6: Recommendation 4

Q7: Is ensuring community involvement in ICANN decision-making: seven new Community Powers a solution that is acceptable to you? (Please refer to Annex 04: Details on Recommendation 4: Ensuring Community Involvement In ICANN Decision-Making: Seven New Community Powers for more information)

Yes, I support this recommendation.,

Comment

Nominet welcomes the separation of the processes for rejecting the ICANN and IANA budgets. We also welcome the process that must be followed before rejecting the IANA budget. Grounds to challenge the IANA budget are not identified: we would suggest that this might only be because the PTI budget was not agreed through a community process or that ICANN had blocked a properly developed budget request from PTI. We would have concerns if the IANA budget were to be held hostage for non-IANA concerns or if ICANN accountability processes were to be used to overturn decisions made using the properly constituted processes.

PAGE 7: Recommendation 5

Q8: Is changing aspects of ICANN's Mission, Commitments and Core Values a solution that is acceptable to you?(Please refer to Annex 05 - Details on Recommendation #5: Changing Aspects Of ICANN's Mission, Commitments And Core Values for more information)

Yes, I support this recommendation.,

Comment

We support the proposals for the revision of the mission statement outlined above. We welcome the separation and clarification of commitments and core values.

PAGE 8: Recommendation 6

Q9: Is reaffirming ICANN's commitment to respect internationally recognized human rights as it carries out its Mission a solution that is acceptable to you?(Please refer to Annex 06 - Recommendation #6: Reaffirming ICANN's Commitment to Respect Internationally Recognized Human Rights as it Carries Out Its Mission for more information)

Yes, I support this recommendation.,

Comment

The reference to obligations within ICANN's narrow scope and Mission and the clear statement that the draft bylaw does not impose any enforcement duty on ICANN are key for our support for this recommendation. In particular, ICANN is not, and should not be seen as, a global human rights enforcer. We would like to see these limits on ICANN's human rights responsibilities maintained in subsequent work on human rights language for the framework of interpretation.

PAGE 9: Recommendation 7

Q10: Is strengthening ICANN's Independent Review Process a solution that is acceptable to you?(Please refer to Annex 07: Recommendation 7: Strengthening ICANN's Independent Review Process for more information)

Yes, I support this recommendation.,

Comment

We welcome the clear statement that ccTLD delegation/redelegation appeals are not part of this process. The ccNSO will develop requirements for using its agreed processes. Having a specialist panel is useful, given the complexity of issues that it might need to address. However, is there any assessment of the likely demands on the system? We support the idea of developing "case law" to ensure consistency between similar decisions.

PAGE 10: Recommendation 8

Q11: Is fortifying ICANN's request for reconsideration process a solution that is acceptable to you?(Please refer to Annex 08 - Recommendation #8: Improving ICANN's Request For Reconsideration Process for more information)

Yes, I support this recommendation.,

Comment No comments

PAGE 11: Recommendation 9

Q12: Is incorporation of the Affirmation of Commitments a solution that is acceptable to you?(Please refer to Annex 09 - Recommendation #9: Incorporation of the Affirmation of Commitments for more information)

Yes, I support this recommendation.,

Comment

Nominet has recognised the AoC reviews as fundamental to the accountability of ICANN both towards the community and more widely. Accordingly we welcome the incorporation of the AoC in ICANN bylaws. In the light of operational experience with the CCWG-Accountability recommendations, it could be useful to use this mechanism to examine the effectiveness of the new regime, making it possible in the light of operations experience to identify improvements for recommendation to the community.

PAGE 12: Recommendation 10

Q13: Is enhancing the accountability of Supporting Organizations and Advisory Committees a solution that is acceptable to you?(Please refer to Annex 10 - Recommendation #10: Enhancing the Accountability of Supporting Organizations and Advisory Committees for more information)

Yes, I support this recommendation.,

Comment

We believe that this is fundamental to ensure the legitimacy of the new processes of accountability, given the roles and responsibilities of the SO/ACs.

PAGE 13: Recommendation 11

Q14: Is Board obligations regarding GAC Advice (Stress Test 18) a solution that is acceptable to you?(Please refer to Annex 11 - Recommendation #11: Board obligations regarding GAC Advice)

Yes, I support this recommendation.,

Comment

Part of the process of ICANN enhanced accountability in a multi-stakeholder environment is that all stakeholders can contribute to the processes. We recognise sensitivities over combining the GAC's advisory powers – which bylaws require that the Board takes very seriously – and a decision-making power in line with other SO/ACs. The draft wording looks appropriate, subject to the GAC agreement.

PAGE 14: Recommendation 12

Q15: Is committing to further accountability work in Work Stream 2 a solution that is acceptable to you? (Please refer to Annex 12 - Recommendation #12: Committing to further accountability work in Work Stream 2)

Yes, I support this recommendation.,

Comment

We agree that there should be a commitment to further work in line with existing expectations for Work Stream 2. Jurisdiction is a very complex issue – a change of jurisdiction could have a significant on the whole framework of enhanced accountability, for example. It would be important to identify criteria for assessing the benefits and issues associated with different jurisdictions. Taking limited areas of activity might be a more manageable approach than trying to carry out a full review. However, Nominet would be strongly opposed to any change of jurisdiction that gave ICANN any level of legal immunity for its actions or which limited the ability to enforce the empowered-community mechanisms. We have commented separately on human rights commitments – the framework of interpretation: should not be an opportunity to extend ICANN's obligations beyond its narrow scope and Mission; and should not impose any global enforcement duty on ICANN.

PAGE 15: Additional Information

Q16: Please submit comments you have in addition to the information provided above, including on NTIA criteria, CWG-Stewardship requirements and Stress Tests.

Respondent skipped this question