

ICANN Board Comments on the Draft Framework of Principles for Cross Community Working Groups

Thank you for the effort to develop a uniform framework of principles to guide the formation, initiation, operation and closure of future Cross Community Working Groups (“CCWGs”). We also appreciate the extension on the deadline for comments to April 16, 2016. The community has been working incredibly hard on a range of areas, including the IANA Stewardship Transition, and additional time is warranted to contribute to this important topic.

As the document notes, CCWGs are a relatively new working method within the ICANN community, they are an important mechanism to address issues of mutual interest to ICANN’s SOs and ACs that do not fall within the sole remit of one SO or AC. In this regard, the publication of the draft framework of principles for CCWGs (“Draft Framework”) is also especially timely considering the historic community effort to develop and deliver the IANA Stewardship Transition Proposal to the U.S. Government. Through this process and others, the ICANN Board, staff, and community have learned from and been exposed to a series of considerations that the Draft Framework has sought to address, and we welcome this public comment period as an opportunity for further discussion to systematize CCWG working methods.

Below we provide some input to the discussion and look forward to further dialogue with the community on this area.

General observations

Membership

The Draft Framework notes that it is up to the chartering organizations to appoint members to a CCWG. We would encourage and recommend that chartering organizations be required to select members to ensure a diversity of view points from stakeholder groups within the chartering organization, as well as seek to achieve some cultural, gender, and geographic diversity, while also considering competence, knowledge of the topic or the ability to work well with others. In many cases, sufficient outreach and publicity is needed to get more participants with specific expertise or specialization outside of the SOs and ACs to join a CCWG, given the rationale and purpose of the creation of a CCWG for the specific subject area.

We suggest that the composition of a CCWG includes a Board liaison and staff engagement on areas of expertise, to contribute to the discussions on substantive areas relevant to the topic as well as practicalities of operationalizing the recommendations.

Project planning for broader engagement

Part of ensuring the broadest and most diverse engagement is to set in advance dates and project plans that would allow for the community to plan their engagement and provide them

with enough time for feedback. As it may be difficult to predict dates in advance, some of the communication work could involve regular reporting or updates on the group's progress. In some cases, to allow for regional level outreach, longer consultation periods would allow, for example, for materials to be translated to reach a broader audience.

Identifying consensus

The Draft Framework notes that a formal consensus call of members should be taken to identify the level of consensus. A highlight of the CCWG-Accountability process has been the open participation from many volunteers, either formally appointed by an SO or AC ("members"), or participating of their own volition ("participants"). However, with a mix of participants and members, care should be taken to ensure that a CCWG is driven by as many active voices as possible. In this regard, a CCWG's leadership could routinely survey the members and participants on a straw poll basis as new ideas, concerns and solutions are proposed. Such tools as the ability to express agreement in remote meeting rooms could be used to help ensure that the direction of the CCWG is set by a broad and inclusive group of members and participants.

Each of a CCWG's recommendations should include documentation of the level of consensus, detailing any objections. This is particularly important as the new ICANN accountability structures may well mean that CCWG and PDPWG chairs' decisions may be more subject to appeal processes than they have been until now.

Resources and scoping

The Board agrees that the scope of a CCWG must be clearly defined as to the issues addressed, and the work to be undertaken. This impacts the area of resourcing as well. With regards to resourcing, the Draft Framework notes that resources need to be allocated from within the staff and the volunteer community. Currently, ICANN allocates policy support staff to the various SOs and ACs to carry out regular policy and advice development work within the scope of these SOs and ACs, and these are accounted for in the ICANN Annual Budget. Normally some of these staff, or staff from other departments, are assigned to a CCWG based on the participation of SOs and ACs and the expertise needed. However, as experienced with the CWG-Stewardship and the CCWG-Accountability, there are also times where a CCWG requires additional support staff or external experts. While CCWGs of this size are unlikely to be the norm moving forward, the Board suggests that the framework consider differentiating between smaller CCWGs and larger CCWGs that may be more resource intensive.

In this regard, we would recommend incorporating in the CCWG chartering process an early identification of resources and rationale beyond the norms, such as additional staff and expert advisors, any in-person meetings, and that this be specifically identified and developed into a CCWG's budget. The budget requirements should normally feed into the ICANN Annual Budget process. Where a significant CCWG's budget is required outside of the normal ICANN Annual Budget process, a specific request should be generated with corresponding rationale and should require the approval of the Board. This should be part of the development of the

charter that is approved by the SOs and ACs. To assist with budgeting during the chartering process, ICANN is willing to provide a project cost support team. This team could also assist in evaluating, based on a norm to be established, whether a CCWG is smaller or larger and how resourcing is impacted as a result.

With regards to managing the resources, as the Draft Framework notes, the staff assigned to the CCWG will fully support the work of the CCWG as requested by the Chair(s). With this, and to support the Chairs in this effort, for situations of in-person meetings and additional resourcing of experts outside the staff, the additional project cost support function specifically working with the Chairs is recommended to assist in ensuring budget and resources are managed within the scope of what is approved through the CCWG chartering and budget process.

Finally, in engaging external experts more effectively, we recommend setting expectations in the terms of reference so that the experts have a clear understanding of the time commitment, CCWG process, mechanisms/means of engagement and advice-provision, and specific milestones/opportunities in the process where they would be consulted for their expertise. In situations where the issues are complex (e.g., involving multiple inter-relating components) and the process is fast-moving, we recommend that working with the experts and chairs to identify additional support to the experts on the status of CCWG work.

Responses to Open Questions in Section 4.0

1. *Should there be a requirement that all CCWG recommendations must be considered by the ICANN Board, if minimum requirements are met (similar to the GNSO Policy Development Process)?*

If a CCWG is chartered to address an issue that has been recognized by the community as having enough importance to cut across and affect more than one of ICANN's SOs and ACs, then that issue and that CCWG's output deserves the ICANN Board's attention. While the Board may need to be aware of all CCWGs' output, some CCWGs might discuss issues where there is no expected outcome or formal Board action needed. The Board would like to have the option to determine its involvement based on the size and scope of the issue. If there is an expectation of an outcome for the Board, there are additional considerations including, for example:

1. Board involvement/notice of the chartering effort.
2. Board engagement and contribution with regards to the development of recommendations as part of input to aid in Board's acceptance of recommendations and ability to implement.
3. Mechanisms and opportunity for consideration of whether the CCWG is addressing an issue that is appropriately within ICANN's narrow mission.
4. Prioritization of the CCWG recommendations.

2. *Should more formalized Operating Procedures be developed for CCWGs?*

Yes. Standard operating procedures allow for most efficient workflow and clear expectations for the community, enabling all involved to focus more on the issues, and less on process. In particular, we would suggest including more consideration regarding project cost support and how responsibilities would be defined for requesting, approving, monitoring costs and resources.

3. *Should additional mechanisms be developed to deal with situations in which Chartering Organizations may disagree or want to discontinue their engagement?*

Yes. Should a chartering organization wish to discontinue its engagement in the CCWG, it may be worth considering whether the CCWG needs to be re-chartered, or whether a minimum threshold of participating SOs and ACs is needed to maintain a CCWG.

4. *Should there be a mechanism to close a CCWG if it is clear that it will not be possible to produce a final report or that circumstances have overtaken the need for a CCWG? (See Section 3.3.4 and 3.4.2 above)*

Yes. There should be a mechanism to close a CCWG under the circumstances identified in Section 3. This is an important safeguard with regard to project costs expenditure as well.

5. *For implementation and post-implementation of the CCWG output, what should be the role of the CCWG? Should the Charter template be expanded to include these details? How would the process be initiated?*

The Board welcomes recent community efforts to follow through on the implementation of its policy work to ensure the implementation is consistent with the intent of the policy, and seeks to further define the community role in implementation. ICANN has been working on developing a Board Advice Register, and this post-closure process fits well into the process envisioned for the Board Advice Register. A CCWG, however, should not be responsible for implementation, and should not expand its charter to include this work. It is important that staff be able to implement policies in the most neutral and effective way possible. To initiate the process of implementation, the Board will instruct staff to implement recommendations once they are finalized and have been considered by the Board. A CCWG can be involved in both reviewing the implementation of a policy, and acting as a sounding-board for staff to consider various options for implementation.

6. *Are uniform Statements of Interest, or something similar, beneficial to the CCWG process?*

Yes, whether uniform or not, these statements should be clear in purpose and, as an accountability mechanism for community engagement in the policymaking process, need to be accurate and verified where possible.

7. Should specific requirements be listed for the appointment of members?

Yes. The Board encourages diversity as a primary requirement for appointment of members (for example, but not limited to, expertise, geography, gender, knowledge of the topic, or the ability to work well with others). We understand that this has been an issue because each SO and AC has its own appointment process, but we note that the CCWG-Accountability Work Stream 1 recommendations attempt to address this, and further work on SO and AC accountability is outlined for Work Stream 2.

8. Who launches a call for volunteers/participants?

The Board leaves this question to the community, but suggests not creating working groups that are so large such that they may be difficult or inefficient to manage. Additionally, the Board would be interested to learn more concerning how these groups can avoid capture by too many participants and observers from a certain viewpoint. In some cases, emphasis on diversity and balance could run counter to keeping a CCWG small and efficient. Unproductive behavior or behavior that otherwise violates the ICANN Expected Standards and business practices shall be moderated or contained or managed or understood and mitigated.

Closing Remarks

This is an evolving area, and in that regard we also agree with the suggestion that principles and recommendations contained in a framework are regularly reviewed, and like the suggestion of that occurring every three years after adoption by the community or after three CCWGs have completed their work.

The Board also suggests, given the importance of this area of work, that in addition to the public comment process, there is also a community-wide discussion at ICANN56 in Helsinki and hope that the timeline for the development of the Framework of Principles for Cross Community Working Groups can accommodate this. The intersection between CCWGs and the policy development process is not only a topic of interest for the Board, but also an excellent topic for Meeting B as envisioned in the New Meeting Strategy.