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Submission ID: 9

Questions Concerning the Proposal as a Whole

1) Completeness and clarity: Is the combined proposal complete? Each of the operational community proposals contains aspects to be completed in the future when the proposal is implemented. Is the combined proposal specified in sufficient detail such that it can be evaluated against the NTIA criteria?

Yes and Yes.

2) Compatibility and interoperability: Do the operational community proposals work together in a single proposal? Do they suggest any incompatible arrangements where compatibility appears to be required? Is the handling of any conflicting overlaps between the functions resolved in a workable manner?

Yes, No, Yes.

3) Accountability: Do the operational community proposals together include appropriate and properly supported independent accountability mechanisms for running the IANA functions? Are there any gaps in overall accountability under the single proposal?

Yes and yes. What recourse does the multistakeholder community have if ICANN violates its own policy? How long does this corrective action take to implement? What if ICANN simply ignores policy? Would the community take ICANN to court? How long would this process take and who would pay for it? In the meantime, what would be the status of the Internet administration and ICANN policy decisions?

4) Workability: Do the results of any tests or evaluations of workability that were included in the operational community proposals conflict with each other or raise possible concerns when considered in combination?

Yes. Accountability mechanisms are unworkable from a chronological point of view. In a worst case scenario where the Board recall provisions are invoked, it will likely take a minimum of a year from start to finish given the input and voting required from the various constituent organizations. If ICANN were to do something so grievous as to invite the community to invoke this sanction, it is reasonable to conjecture that the action in question would pose a significant threat to the security, stability and resiliency of the DNS. Moreover, nothing constrains the Board from pursuing further courses of action contrary to the interests of the multistakeholder community while the latter pursues sanctions nor is the Board constrained from altering policies to undermine the recall

process. Furthermore, what is the status of decisions made by a Board during the process.

I would suggest that the initiation of sanctions also trigger a recusement period, eliminating the ability of ICANN to alter rules and processes while they are being invoked and during which the Board may not advance or initiate policy.

Questions Concerning NTIA Criteria

5) Do you believe the proposal supports and enhances the multistakeholder model? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary.

Yes. Internet stakeholders will have augmented capacity to influence and even coerce ICANN should the need arise. It alters the balance of power.

6) Do you believe the proposal maintains the security, stability, and resiliency of the DNS? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary.

No, see 4 above.

7) Do you believe the proposal meets the needs and expectations of the global customers and partners of the IANA services? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary. Please indicate if you are a customer or partner of the IANA services.

No. Potential uncertainty and disruption when conflict arises between the community and ICANN. See other points in this feedback.

8) Do you believe the proposal maintains the openness of the Internet? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary.

No. As a steward and administrator of the Internet, ICANN's records and processes should be fully open and public. Full transparency is called for.

9) Do you have any concerns that the proposal is replacing NTIA's role with a government-led or inter-governmental organization solution? If yes, please explain why and what proposal modifications you believe are necessary. If not, please explain why.

No. The GAC's role is minimal and does not rise to the bar of "government-led." That said, it is unclear whether the GAC will sign off on the accountability measures when its voice is so diminished.

10) Do you believe that the implementation of the proposal will continue to uphold the NTIA criteria in the future? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary.

No. NTIA oversight is not replaceable. While there are many concerns about effective US oversight, it remains true that being beholden to the US government is a result of the significant coercive force that the US government can potentially wield. This is not replicable. Absent that force, it is unlikely the the NTIA criteria will continue to be upheld over the long run. One potential solution would be going a step further than the Board recall mechanism: allow the community to petition the NTIA to reassert oversight and build such a clause into all IANA function contracts.

Questions Concerning ICG Report and Executive Summary

11) Do you believe the ICG report and executive summary accurately reflect all necessary aspects of the overall proposal? If not, please explain what modifications you believe are necessary.

Yes

General Questions

12) Do you have any general comments for the ICG about the proposal?

I commend all of the work of the many representatives and volunteers who worked very hard to deal with an incredibly thorny issue.