March 13, 2017

Steve Crocker

Chairman, ICANN Board of Directors

Re: CCWG Recommendation to the ICANN Board regarding ATRT3 with respect to collision of topics between ATRT3 and CCWG-Accountability Work Stream 2 topics.

Dear Steve,

On August 8th,2016 we wrote to you concerning the above topic (see Annex A) to which you replied October 24th, 2016 (see Annex B) :

> *"It is not up to the Board to dictate the scope of this important community review. While we share the concerns raised of avoiding duplication of resources, it is essential that the broader ICANN community have a voice in determining how the ATRT3 should be scoped in alignment with the Bylaws. The Board and the ICANN Organization stand ready to support the community's direction."*

As per your response the CCWG-Accountability WS2 contacted the SO and ACs asking that they provide their input on this topic on December 2nd, 2016 (see Annex C).

As of the date of this letter the SSAC, ccNSO, gNSO and ALAC have responded to our request. Copies of their responses can be found in Annex D.

The CCWG-Accountability WS2 remains open to discussing this topic with you or assisting the ATRT3 Review team as needed.

Mathieu Weill

León Sanchez

Thomas Rickert

CCWT Acct Co-Chairs

Steve Crocker
Chairman, ICANN Board of Directors

Dear Steve,

Re: CCWG Recommendation to the ICANN Board regarding ATRT3 with respect to collision of topics between ATRT3 and CCWG-Accountability Work Stream 2 topics.

The CCWG-Accountability (CCWG) at its face to face meeting at the ICANN 56 in Helsinki considered the implications of the collision of topics, and therefore efforts, between ATRT3 and Work Stream 2 (WS2) (please see Annex 1 for a detailed consideration of this issue).

In its discussion of this issue the CCWG considered the following points:

- Collision of topics between WS2 and ATRT3 - There is potential for significant overlap between WS2 topics and the scope of ATRT3 as 6 of the 9 WS2 topics are accountability and transparency issues ATRT3 could also consider.
- Timing of the two activities - WS2 should begin in July 2016 with an objective of completing its work by June 2017. ATRT3, which is expected to take 12 months to complete, is currently scheduled to begin in January 2017 but could potentially be delayed until February 2018 under the new Bylaws (which require ATRT every 5 years vs the AoC requirement for every 3 years). It would seem inefficient, at best, to have both of these activities working on the same topics independently, while drawing on the same pool of community volunteers. At worst, ATRT3 and WS2 groups could issue recommendations that are conflicting or duplicative.
- Implementation of recommendations – The Bylaws for WS2 give CCWG recommendations greater weight when it comes to board consideration, relative to recommendations from an ATRT.
- Options considered:
  - Option 1 - Let both ATRT3 and WS2 work in parallel and have a procedure to reconcile recommendations.
  - Option 2 - Delay ATRT3 until WS2 is complete.
  - Option 3 - Convene ATRT3 as soon as possible with the limited scope of assessing implementation of ATRT2 recommendations. Allow WS2 to handle new recommendations for accountability and transparency. The fourth ATRT would convene before 2022 and would assess all accountability and transparency topics and make recommendations
  - Option 4 - Leave everything that can be covered by the ATRT3 to ATRT3 and then the CCWG focus on the other points. The ATRT recommendations could come back to the CCWG accept those recommendations.

After considering this issue, the CCWG-Accountability reached consensus that option 3 was the preferred path, and requested that the Co-Chairs communicate this recommendation to the

ICANN Board for its consideration.   We understand that NTIA would need to agree to the reduced scope for ATRT3 since that review was convened under the Affirmation of Commitments.

Thanking you for your attention to this matter.
Sincerely,

Thomas Rickert
Co-Chair, CCWG-Accountability

24 October 2016

Thomas Rickert

León Sanchez

Mathieu Weill

Co-Chairs, CCWG-Accountability

Dear Thomas, León and Mathieu,

Thank you for providing the recommendation from the CCWG-ACCT's chairs regarding the potential

overlap of topics between the third Accountability and Transparency Review (ATRT3) and CCWGAccountability

Work Stream 2 (WS2) topics. You raise an important issue. We have not had a chance to

address this issue previously given the work needed to complete the transition. Now that we know that

the new Bylaws are in place and will govern the ATRT3, the broader ICANN community can consider if

and how it wishes to address the issues raised in your letter.

It is not up to the Board to dictate the scope of this important community review. While we share the

concerns raised of avoiding duplication of resources, it is essential that the broader ICANN community

have a voice in determining how the ATRT3 should be scoped in alignment with the Bylaws. The Board

and the ICANN Organization stand ready to support the community's direction.

By way of this response, I'm also cc'ing the leadership of the other SOs and ACs, and attaching your

original letter. ICANN57 in Hyderabad might be a good forum to kick off this community conversation on

what the ATRT3 should look like.

We look forward to supporting the community's work in the upcoming ATRT3 and in the ongoing WS2

efforts.

Sincerely,

Dr. Stephen D. Crocker

Chair, ICANN Board of Directors

cc:

SO/AC Leaders

ICANN Board

ANNEX C

Proposal for a Limited Scope of the ATRT3 Review

The CCWG-Accountability (CCWG) at its face to face meeting at the ICANN 56 in Helsinki considered the implications of the collision of topics, and therefore efforts, between ATRT3 and Work Stream 2 (WS2) (please see Annex 1 for a detailed consideration of this issue).

In its discussion of this issue the CCWG considered the following points:

- Collision of topics between WS2 and ATRT3 - There is potential for significant overlap between WS2 topics and the scope of ATRT3 as 6 of the 9 WS2 topics are accountability and transparency issues ATRT3 could also consider.

- Timing of the two activities - WS2 began in July 2016 with an objective of completing its work by the end of 2017. ATRT3, which is expected to take 12 months to complete, is currently scheduled to begin in January 2017 but could potentially be delayed until February 2018 under the new Bylaws (which require ATRT every 5 years versus the AoC requirement for every 3 years). It would seem inefficient, at best, to have both of these activities working on the same topics independently, while drawing on the same pool of community volunteers. At worst, ATRT3 and WS2 groups could issue recommendations that are conflicting or duplicative.

- Implementation of recommendations – The Bylaws for WS2 give CCWG recommendations greater weight when it comes to board consideration, relative to recommendations from an ATRT organized under the AoC.

While in Helsinki, the CCWG concluded its preferred approach, as communicated in our 8-Aug-2016 letter to the Board of ICANN:

> Convene ATRT3 as soon as possible with the limited scope of assessing implementation of ATRT2 recommendations. Allow WS2 to handle new recommendations for accountability and transparency. The fourth ATRT would convene before 2022 and would assess all accountability and transparency topics and make recommendations

The ICANN Board replied to the CCWG letter on 24-Oct-2016, saying,

> It is not up to the Board to dictate the scope of this important community review. While we share the concerns raised of avoiding duplication of resources, it is essential that the broader ICANN community have a voice in determining how the ATRT3 should be scoped in alignment with the Bylaws. The Board and the ICANN Organization stand ready to support the community's direction.

Accordingly, the CCWG is now proposing to community leadership the following approach:

- Requesting that the SO/AC leadership select (following the new Bylaws) a small group of review team members that have either participated in or closely tracked ATRT2.

- Requesting the ICANN organization to do a "self-assessment" reporting on a) the extent to which each recommendation was followed and/or implemented; b) the effectiveness in addressing the issues identified by ATRT2; and c) the need for additional implementation.

- Specifically request that the Review Team exclude the issues that are already covered by the CCWG-Accountability WS2 (see Annex 1).

- Suggesting that the work be conducted & completed more quickly than normal, such as asking that the Final Report be issued within six months

If the suggested approach above is agreeable to SO/AC community, the next steps would be:

- SO/AC leadership to issue a public statement or a letter to ICANN CEO and Board Chair that explains why limited scope is appropriate and articulates that they have broad support of the ICANN community

- Call for Volunteers to note limited scope & unique expertise sought

- Reach out to previous ATRT Review Team members and encourage them to apply for the narrowly-scoped ATRT3 Review Team

- Propose a Charter for the ATRT3 Review Team to adopt that tracks the limited Scope

ANNEX D

From: Patrik Fältström <patrik@frobbit.se>
Date: Friday 27 January 2017 12:29
To: Bernard Turcotte <turcotte.bernard@gmail.com>
Cc: Katrina Sataki <katrina@nic.lv>, <thomas.schneider@bakom.admin.ch>, James Bladel <jbladel@godaddy.com>, <ASO-chairs@aso.icann.org>, Louie Lee <louie@louie.net>, <tsinha@umd.edu>, <bverd@verisign.com>, Alan Greenberg <alan.greenberg@mcgill.ca>, Olof Nordling <Olof.nordling@icann.org>, Thomas Rickert <thomas@rickert.net>, Heidi Ullrich <Heidi.ullrich@icann.org>, ACCT-Staff <Acct-staff@icann.org>, <aso@icann.org>, Bart Boswinkel <Bart.boswinkel@icann.org>, León Felipe Sánchez Ambía <leonfelipe@sanchez.mx>, David Olive <David.olive@icann.org>, Marika Konings <Marika.konings@icann.org>, Carlos Reyes <Carlos.reyes@icann.org>, <Steve.sheng@icann.org>, Mathieu Weill <mathieu.weill@afnic.fr>, "Larisa B. Gurnick" <larisa.gurnick@icann.org>, Steve Crocker <steve.crocker@board.icann.org>, SSAC SSAC <ssac@icann.org>
Subject: Re: CCWG-Accountability WG proposal for a Limited Scope of the ATRT3 Review - reminder

[+SSAC]

Dear Bernard,

My apologies for missing you actually had a question at the end. I interpreted the message as a description of the situation, which SSAC already have said we are comfortable with.

The SSAC supports the proposal from the CCWG-A Co-Chairs that the scope of ATRT3 be restricted to a review of the implementation of ATRT2 recommendations.

Patrik Fältström
SSAC Chair

to Patrik, me, thomas.schneid., James, ASO-
chairs, Louie, tsinha, bverd, Alan, Olof, Thomas, Heidi, ACCT-
Staff, aso, Bart, León, David, Marika, Carlos, Steve.sheng, Mathieu, Larisa, Steve, SSA
C, ccNSO

Dear Bernard, All,

The ccNSO Council supports the suggestion to limit the scope of the ATRT3 review.

Kind regards,

]{atrina

6 March 2017

Proposed Limited Scope for the Upcoming Third Accountability & Transparency Review Team

James Bladel, Donna Austin & Heather Forest
GNSO Council Chairs

Thomas Rickert, Leon Sanchez & Mathieu Weill
Co-Chairs, Cross Community Working Group on Enhancing ICANN Accountability

Cc: GNSO Council; SO/AC Chairs; ICANN Multi-Stakeholder Strategy & Strategic Initiatives Staff

The GNSO Council thanks the CCWG-Accountability for requesting that the GNSO Council consider its suggestion to limit the scope of the upcoming third Accountability and Transparency Review Team (ATRT-3). The Council has reviewed the proposal carefully, and wishes to provide the following response. The Council requests that ICANN staff forward this input for consideration by the ATRT-3 when the Review Team is formed.

The GNSO Council is mindful of the fact that the mandate for the ATRT is outlined in the ICANN

Bylaws and as such the Council does not believe it will be appropriate to limit the scope of the ATRT-3 at the outset of its formation. Nevertheless, the Council recognizes the strong possibility of substantial overlap between some of the work that is ongoing in Work Stream 2 of the CCWG-Accountability and the work that may potentially be done by the ATRT-3. The GNSO Council believes that it is important that the ATRT-3 conduct its work with a view toward efficacy and minimizing duplication of work as far as possible. Consequently, the GNSO Council wishes to offer the following advice:

- The ATRT-3 should, at an initial stage of its work, take account of the work being done within Work Stream 2 of the CCWG-Accountability and note any topics that can be considered as potentially overlapping;
- With respect to those topics that are identified as potentially overlapping, the ATRT-3 should consider ways of conducting its work so as to avoid duplication with the work of the CCWG-Accountability; for example, by defining its scope of work in line with the expected timing of outcomes from the CCWG-Accountability, or structuring its timeline to allow for the implementation of accountability mechanisms that may be modified or added as a result of the work of the CCWG-Accountability; and
- In developing its scope of work, the ATRT-3 should strive to: (a) avoid duplication of work being done elsewhere in the community, particularly by the CCWG-Accountability; and (b) minimize the possibility of conflicting recommendations resulting from concurrent work.

The GNSO Council appreciates the opportunity to comment on the proposal from the CCWGAccountability, and hopes that its advice will be helpful in focusing the work of the ATRT-3 while avoiding duplication of work that is already underway in the community

James Bladel (GNSO Chair)
Donna Austin (GNSO Vice-Chair, Contracted Parties House)
Heather Forrest (GNSO Vice-Chair, Non-Contracted Parties House)

ALAC Statement on the Proposal for Limited Scope of the Third Accountability and Transparency Review Team (ATRT3) Review

During the ALAC Monthly Meeting on 20 December 2016, the proposed limited scope of the ATRT3 Review has been discussed. After consultation with ALAC Members who have participated in ATRT2, closely tracked ATRT2, and/or actively engaged in the Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability), the ALAC has reached agreement on the following:

The ALAC supports the CCWG-Accountability proposal of convening a narrowly-scoped ATRT3 Review Team as soon as possible, which is tasked with assessing the implementation of ARTR2 recommendations only as per the message from Mathieu Weill dated 02 December 2016. The ALAC also supports the proposal of requesting ICANN Staff to do a "self-assessment" triage report on ATRT2 recommendations and their implementation, which will facilitate the completion of the ATRT3 work in an efficient manner. Should this go forward, the ALAC will encourage At-Large Community members who participated in previous ATRT Review Teams to apply for the ATRT3 Review Team and contribute to its Charter development process.

Nevertheless, the ALAC stresses that the proposed limited scope of ATRT3 should be considered exceptional. Future ATRT rounds should have the original full scope to cover accountability and transparency topics and make recommendations, as per requirements in the original Affirmation of Commitments (AoC) Reviews. Furthermore, the fourth ATRT should convene sooner before the maximum five years.

Lastly, the ALAC is concerned that the evaluation of the overall composition and balance of stakeholder representation in ICANN's Multistakeholder Model is long overdue, an issue raised during the Second At-Large Summit. This review should either be addressed under ATRT4, or by a special review convened by the ICANN Board ensuring that appropriate consideration is given to all views from all stakeholders, proportionally to their scope, relevance, and decision-making requirements in ICANN.

Alan Greenberg
Chair, ALAC