NCSG comments on the Draft Recommendations of the CCWG Accountability WS2 on SO/AC Accountability

NCSG welcomes the draft CCWG Accountability WS2 recommendations on SO/AC accountability. These recommendations are an important contribution to strengthening ICANN's overall accountability and in particular that of the ICANN community.

The work comprised three tracks:

1. Review and development of recommendations to improve SO and AC processes for accountability, transparency, and participation that are helpful to prevent capture;

2. Evaluation of the proposed "Mutual Accountability Roundtable" to assess its viability and, if viable, undertake the necessary actions to implement it; and

3. Assessment of whether the Independent Review Process (IRP) should be applied to SO/AC activities.

Comments on Track 1:

NCSG supports the 25 "best practices" recommendations that each SO/AC/Group is encouraged to implement. We also support the recommendation that future Accountability and Transparency Review Teams (ATRT) examine implementation of these best practices among SO/AC/Groups.

The NCSG recommends a change to the ICANN Bylaws at Sec 4.6 b, and adding to documented procedures for Accountability and Transparency reviews. For example, the following could be added to the Bylaws: *§4.6(ii): (G) assessing and improving accountability procedures of the Supporting Organisations and Advisory Committees.* The specifics, such as the recommendations in the report, could be left to lesser mechanisms.

Despite the 25 recommendations, there remains a broader question that does not seem fully answered. One of the fundamental motivations for this WS2 effort was to address the notion of "capture," an issue raised by the NTIA regarding internal capture by a subset of SO/AC members, and concern that incumbent members might exclude new entrants to an SO/AC. Do the recommendations in Track 1 fully address this fundamental question?

The recommendations appear to partially address the issue of excluding new members through recommending an appeal process, etc., but internal capture appears less well dealt with.

For example, issues such as term limits, balance of new and longer serving members on committees, diversity in committees and working groups, length of time before returning to committee positions, among others, do not appear to feature in the recommendations.

While recognizing that there is often a small pool to draw on for leadership positions, particularly among volunteer communities, concerns have been expressed that leadership structures in the community often comprise the same individuals rotating among the same roles, which can be considered a form of capture. Ensuring that committees and other community structures with executive powers are able to resist and address internal capture through term limits and diversity, among others, is critical to good governance.

It would be useful to understand how the recommendations concretely address the issue of capture in more detail rather than the comment in the draft that the recommendations are "helpful to prevent capture."

NCSG suggests that it might also be useful for there to be a fuller understanding of what best practices exist in terms of avoiding capture in committee and governance structures.

Further, some of the recommendations burden the volunteers of the SO/ACs with time-consuming administrative tasks. For instance, the suggestion that a report be published annually on how the respective group can "improve accountability, transparency, and participation, describing where they might have fallen short, and any plans for future improvements" would be time consuming for the volunteers to produce and lend itself to bias. Other options might warrant consideration - for example, engaging the services of an external consultant to objectively produce such a report for the entire community.

Comments on Track 2:

NCSG supports the finding that the "Mutual Accountability Roundtable" be an optional accountability measure subject to the approval of the SO/AC Chairs.

Comments on Track 3:

NCSG supports the finding that the "IRP should not be made applicable to activities of SO/AC/Groups."

Requested Revision to Annex 1:

Between the time of this report being published and comments initially being sought, the constituencies of the NCSG have refined their external engagement strategies with a view to bringing even more new voices and perspectives into our work. As a result, we kindly request the addition of a new bullet point on page 30 under the heading, 'GNSO-NCUC (Non-Commercial Users Constituency)':

"The NCUC, with the support of the CROPP programme and its donors, regularly holds capacity building programmes to educate local people in the vicinity of upcoming ICANN meetings on what ICANN does, how they can contribute, and how to engage in ICANN's agenda setting and policy making processes. We present this material impartially, attract leading guest speakers from the region, and have an attendance of upwards of 100 students, civil society practitioners, and other interested participants who come to learn more about the community's work and why it matters to them.

Conclusion:

NCSG welcomes the draft recommendations: they are an important contribution to the evolution of the overall accountability of ICANN and its community.   NCSG also looks forward to further discussion as to whether the recommendations as a whole adequately address the important issue of preventing capture.