Cross-Community Working Groups within the ICANN Framework

An ICANN GNSO Discussion Document

Objective

This discussion document aims to develop a common understanding of the role, function and method of working of Cross Community Working Groups (CCWGs) within the ICANN framework. Moreover, it seeks to define a way forward for the effective chartering, functioning and utilization of such groups in future such that they operate effectively and appropriately within the existing ICANN structures and processes. This will ensure that work done by and within such groups, chartered by supporting organizations and referred back to the chartering organizations in the first instance, can be relied upon by the ICANN board as advice from legitimate ICANN structures.

CCWG Definition

Cross-Community Working Groups may also be referred to as Community Working Groups or Joint Working Groups. CCWGs can be defined as a working group of willing volunteers who come together to deal with a particular topic or area of interest, which potentially impacts strongly on more than one key stakeholder group within the ICANN structure. Contributors to a CCWG may be working in their own capacity as individuals or as representatives of another organisation or employer.

Document Structure

The document aims to first set out the background, primarily focussed on procedural questions and related issues arising from the work of CCWGs. Second, it seeks to propose and chart a way forwards for the future effective functioning of such groups. It is anticipated that it will be possible to find consensus within the GNSO on the way forward. On the basis of GNSO consensus, it is hoped that we use this as a basis to seek wider consensus with other ICANN supporting organisations and advisory committees.

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Background

A brief history on why CCWGs have been implemented in the past. To attempt to deal with intractable, complex or multi-disciplinary issues?

Prior examples:

- JIG WG -
- IRDWG -
- DSSA -
- SOAC Rec6 DT (formerly MAPO) -
- JAS -

Some of the successes associated with or attributable to these groups are as follows …

ADDITIONAL INPUT HELPFUL HERE

Motivation for this Work

A series of questions, issues and concerns have arisen out of the prior work of the CCWGs. Typically the concerns relate to issues of process, essentially compliance with and adherence to the existing ICANN structures and processes. In particular, the existence and functioning of CCWGs is not envisaged and therefore dealt with in the bylaws of ICANN.

In this context, the ICANN board needs to be sure that it is not taking advice from parties or groups that are operating outside of established and legitimate ICANN structures. It is worth recalling the affirmation of commitments, the emphasis on a bottom up process and the focus on the ICANN board taking advice and recommendations from groups empowered by both the ICANN bylaws and consistent with the Affirmation of Commitments.

It is vital to the credibility of the ICANN structures that informal communications do not metamorphose into formal mandates. Chartering organizations of CCWGs need to ensure that the WGs adhere to the charter and then provide advice and input back into the chartering organizations themselves such that the chartering organizations are then able to act on the advice.

A predictable, reliable process is fundamental to the effective functioning of the ICANN model. Moreover, clarity on how the processes will work needs to be evident both within the working structures and from the outside. The work of CCWGs needs to conform to such a predictable process.

Specifically, CCWGs are not part of the GNSO Policy Development Process as set forth in Annex A to the Bylaws and therefore should not and, in fact, cannot be used as the basis for the development of Consensus Policies which then become binding on the contracted parties.

A methodology for the operation of CWGs is therefore required that provides for clarity, consistency and repeatability. Moreover, it is clearly essential that expediency should not be used as a basis for circumventing the defined processes *i.e.* unduly aggressive timelines ensuring that there is insufficient time for due process.

Key Questions / Issues or Concerns Arising to Date

1. CCWG reports have been sent directly to the Board and this has caused concern in that they are seen to be bypassing the chartering organisation and/or the existing ICANN policy development structures.

   Response:

   Potentially that this approach should not be allowed in any circumstances. Reports should be to the chartering organizations noting that, in the case of policy development, the appropriate policy development organistions (the supporting organizations) must be involved.

2. Board questioning has been addressed directly to the CCWG and this appears to cut out the chartering organizations. Is direct questioning, interaction and the like acceptable, desirable, not acceptable or could be addressed directly to the CCWG afterwards? Or questioning should also be done exclusively through the chartering orgs?

   Response?

3. Are there scope limitations to the proposition of new CCWGs?

4. Are GNSO Working Group rules applicable to guide CCWG working methods also?

5. What is the process for these rules to be ratified as such?

6. Participation. Who participates and on what basis?

   Response:
   Are participants there as individuals, representatives of organizations or both?
   What about GAC members?
   What about SO or AC liaisons?
   N.B. J N view:
   Members may only be participating as individuals and are not speaking on behalf of their company/entity/organization, nor are the speaking on behalf of their constituency/stakeholder group, advisory committee or SO.

Other Key Points

- Chartering and the willingness of the CCWG to work within and with reference to the charter.
- Discipline is required. A process needs to be followed and the organsational structures and bylaws respected.

SWOT Analysis

Strengths

- Multi-disciplinary, multi interest groups with likely diversity.

Weaknesses

- Comprised of individuals who are not necessarily representing any corporate or institutional position

Opportunities

- Allows all affected parties to get together as a body and aim to produce a common direction.

Threats

- Bypasses the authority of the existing structures and hierarchies.
- May result in the shortcut of due and legitimate process.
- Potentially subject to manipulation or external influence.

A proposed Way Forward

Definition

Community Working Groups may also be referred to as Cross-Community Working Groups or Joint Working Groups. CWGs can be defined as a working group of willing volunteers who come together to deal with a particular topic or area of interest, which potentially impacts strongly on more than one key stakeholder group within the ICANN structure.

Scope of Community Working Groups

1. The purpose of CWGs should be limited to the following:
    a. providing a discussion forum to achieve greater community understanding of issues of common interest; or
    b. providing advice to the ICANN staff, community and/or ICANN Board on issues of common interest.
2. CWG should not be used to develop new consensus policy. Each SO has its own rules for developing new policy. However CCWGs may be used to provide input into the development of consensus policy by the SO and/or make recommendations to the SO.

Working Practices for Community Working Groups

1. GNSO Working Group Guidelines or similar should apply to all CWGs whenever possible. Exceptions should be detailed, and explained, in the charter for the CWG.
2. All CWGs should be chartered by the relevant, applicable SOs and/or ACs (including those initiated by the Board) and each SO and AC should approve a single charter.
3. The Charter should speak to the outcomes expected of the group and the steps that must be followed for review of those outcomes by the chartering SOs and ACs.
4. CWGs should be expected to follow the approved charter. If a concern arises, it should be brought to all chartering organizations for resolution according to Working Group Guidelines.
5. The Final Reports and Outcomes of all CWGs shall be communicated to the chartering organizations (only) for review and further action and may be sent to other groups for information only with a clear statement that action is pending with the chartering SOs/ACs.
6. The participating SOs and ACs will make time commitments to finalize actions so as not to unreasonably delay action on a CWG report.
7. SOs and ACs should make all reasonable efforts to solicit and consider the views of other SOs and ACs and to try to accommodate diverging views where possible before finalizing their positions.
8. If the work of a CWG leads to a policy recommendation, that recommendation would still need to be considered and approved through the appropriate Policy Development Process.

Reference Materials

1. DSSA- WG charter
   http://www.ccnso.icann.org/workinggroups/dssa-draft-charter-12nov10-en.pdf

2. HSTLD Advisory Group Position Statement – Mikey O'Connor
   http://gnso.icann.org/drafts/hstld-position-27may11-en.pdf here http://gnso.icann.org/drafts

3. Jeff Neuman - Some principals with respect to Cross Working Groups
   http://forum.icann.org/lists/gnso-ccwg-dt/msg00003.html

4. Draft Principles for Cross-SO/AC Working Groups (CWGs) here http://gnso.icann.org/drafts