

## **Affirmation of Commitments: Accountability and Transparency Review Team 2**

### **Questions for the ICANN Community on the impact of previous reviews and inputs for the ATRT2**

**Note to the Community:** The Accountability and Transparency Review Team 2 (ATRT2) posts this Request for Comments contemporaneous with the ICANN's 46<sup>th</sup> public meeting in Beijing.<sup>1</sup> The ATRT2 is at the initial phase of its review of ICANN's implementation of the recommendations arising out of the three prior Review Teams (the first Accountability and Transparency Review<sup>2</sup>, the Security, Stability and Resiliency Review<sup>3</sup>, and the WHOIS Review<sup>4</sup>) and is in the process of identifying issues on which it will place particular focus during its review. In so doing, input from the Community is critical to ensure that the ATRT2 is focusing its work appropriately.

ATRT2 has asked ICANN staff to open the initial Comment Period for the standard 21 days upon the completion of the 46<sup>th</sup> public meeting in Beijing to allow the Community time to provide meaningful comments. The Comment Period will be followed by a standard 21 day Reply Period. Given the number of questions presented that address the full spectrum of prior Review Team recommendations, ICANN's implementation of those recommendations, and the effect of the implementation efforts, the ATRT2 welcomes any comment from Community members even if those comments are limited to a select number of the questions.

**Explanation/Background:** In the Affirmation of Commitments (Affirmation), ICANN commits to maintain and improve robust mechanisms for public input, accountability and transparency to ensure that the outcomes of its decision-making will reflect the public interest and be accountable to all stakeholders. The second iteration of the Accountability and Transparency Review Team (ATRT2), as specified under the Affirmation, is in the process of assessing the extent to which the Board and staff have implemented the recommendations arising out of the ATRT1, the WHOIS Review Team (WHOISRT) and the Security, and the Stability and Resiliency Review Team (SSRRT) and whether those recommendations and their implementation have resulted in the desired improvements. In this inquiry, the ATRT2 will also assess the accountability and transparency of the processes used by the ICANN Board and staff to review and implement the Review Team recommendations. In addition, the ATRT2 is discussing what new issues, consistent with the scope of the ATRT2 as specified in the Affirmation ¶ 9.1, should be included in its work program. Accordingly, the ATRT2 seeks community input on its scope and work program.

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<sup>1</sup> The ATRT2 is aware that posting a request for Public Comments just prior to or concurrent with an ICANN public meeting is not consistent with best practice in soliciting public input. However, the ATRT2 feels it is important to start the community thinking about and discussing these matters as quickly as possible.

<sup>2</sup> <http://www.icann.org/en/about/aoc-review/atrt/final-recommendations-31dec10-en.pdf> : reference to ATRT1 recommendations

<sup>3</sup> <http://www.icann.org/en/about/aoc-review/ssr/final-report-20jun12-en.pdf> : reference to SSR recommendations

<sup>4</sup> <http://www.icann.org/en/about/aoc-review/whois/final-report-11may12-en.pdf> : reference to Whois recommendations

## **On the Accountability & Transparency Review Team 1 (ATRT 1)**

1. On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”), please indicate the level to which the ICANN Board and staff have effectively, transparently, and fully implemented the recommendations of the ATRT1. Please provide specific information as to why you believe specific recommendations have or have not been effectively, transparently, and fully implemented. What metrics do you believe would be appropriate to measure effectiveness, transparency, and completeness of recommendation implementation?
2. On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”), please indicate to what level the implementation of the ATRT1 recommendations have resulted in the desired improvements in ICANN. Please provide specific information as to why you believe the recommendations have or have not resulted in improvements. What metrics do you believe would be appropriate to measure improvements?

### ***Affirmation of Commitments, paragraph 9.1 (a): ICANN Board of Directors Governance***

3. On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”), what is your assessment of how ICANN’s Board is continually assessing and improving its governance as specified in the Affirmation ¶ 9.1 (a)? Are there issues related to this provision you believe should be addressed or investigated by the ATRT2? If so, please provide specific information and suggestions for improving Board governance. What metrics do you believe would be appropriate to measure whether ICANN’s board is continually assessing and improving its governance?
4. Are you aware of the process through which ICANN Board Members are nominated/elected? On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”), please indicate how well the Board follows clear rules and proceedings in its operation and decision-making. On a similar scale, please indicate whether you believe the Board makes decisions in a transparent way. On a scale of 1 to 10 (1 meaning “no idea” and 10 meaning “full understanding”), please indicate your sense of the Board’s rationale for taking decisions and giving advice. What should the ATRT2 ask the Board specifically to change in the way it normally works? Would any metrics allow you to better follow up their work? Do you think Directors should stay for longer/shorter terms? For individual members do you see any source of potential conflict with the rest of the community? If so, on a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “completely”), please indicate how effective you believe the existing conflict of interest declarations/recusal mechanisms are at preventing actual conflicts.
5. On a scale of 1 to 10 (1 meaning “none” and 10 meaning “fully sufficient”), please indicate your view of the level in which the Board takes the necessary care and dedicates enough time for discussion relating to GAC advice. What metrics would be appropriate to measure the level of this care and/or dedication of time?

***Affirmation of Commitments, paragraph 9.1(b): GAC’s Role, Effectiveness & Interaction with ICANN Board of Directors***

6. On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”), please indicate your assessment of the role and effectiveness of the GAC and its interaction with the Board as specified in the Affirmation ¶ 9.1 (b). Are there issues related to this provision you believe should be addressed or investigated by the ATRT2? If so, please provide specific information and suggestions for improving the role and effectiveness of the GAC and its interaction with the Board. What metrics do you believe would be appropriate to measure GAC effectiveness?
7. Are you aware how the process under which the GAC members are appointed? On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”) please indicate your view of the transparency of GAC decisions. On a similar scale, please indicate your understanding of the GAC’s rationale for taking decisions and giving advice to the Board. What should the ATRT2 specifically ask the GAC to change in the way they normally work? What metrics would allow you to better follow up the GACs work? For individual GAC members do you see any source of potential conflict with the Board and the rest of the community? If so, on a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “completely”), please indicate how effective you believe the existing mechanisms are at preventing actual conflicts.
8. On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”), please indicate your view of the level to which the GAC has done a good job in terms of checks and balances on the accountability and transparency of ICANN as a whole. What metrics do you believe would be appropriate to measure GAC’s performance in this role?

***Affirmation of Commitments, paragraph 9.1(c): Public Input***

9. On a scale of 1 to 10 (1 meaning “unacceptable” and 10 meaning “fully sufficient”), what is your assessment of the processes by which ICANN receives public input and whether ICANN is continually assessing and improving these processes as specified in the Affirmation ¶ 9.1 (c)? Are there issues related to this provision you believe should be addressed or investigated by the ATRT2? If so, please provide specific information and suggestions for improving the processes by which ICANN receives public input.
10. On a scale of 1 to 10 (1 meaning “unacceptable”, 10 meaning “excellent”), please indicate how easy it is to put forward new public inputs to ICANN. How easy is it over the course of a year? When did you last use the public comment mechanism? On a scale of 1 to 10 (1 meaning “unacceptable”, 10 meaning “excellent”), how would you rate ICANN staff’s work in processing public input transparently and publicizing its possible impact? On a similar scale, how would you rate ICANN staff in helping the community identify the pros and cons of those inputs in a clear and transparent way? How do you think the overall public input process can be improved?

11. On a scale of 1 to 10 (1 meaning “unacceptable” and 10 meaning “excellent”), please rate your view of the sufficiency and transparency of communication between the different SO/ACs on public inputs. On a scale of 1 to 10, how would you rate the chances for discussions between the different SO/AC during the public meetings? Do you think some communities have a larger say than others? If so, which communities? How could the ATRT2 review process improve communication between the different stakeholders groups? How should ICANN improve its outreach to the larger Internet community? To participating and non-participating Governments? To regional organizations?

***Affirmation of Commitments, paragraph 9.1(d): ICANN decisions being embraced, supported and accepted by the public and Internet community***

12. On a scale of 1 to 10 (1 meaning “not at all”, 10 meaning “fully”), please indicate your assessment of the extent to which ICANN’s decisions are embraced, supported and accepted by the public and the Internet community as specified in the Affirmation ¶ 9.1 (d)? Can you provide specific example(s) when ICANN decisions were or were not embraced, supported and accepted by the public and the Internet community? Are there issues related to this provision you believe should be addressed or investigated by the ATRT2? If so, please provide specific information and suggestions for improving the acceptance of ICANN decisions by the public and the Internet community.
13. As a percentage, please indicate your view of the chances for a revision of Board’s decisions since the ATRT1.
14. How do you embrace, support or accept the decisions of the ICANN Board, for example, do you embrace the decisions of the Board after an internal review of it in your community and/or working group? Have you asked for a review of Board decision? If yes, which ones?

***Affirmation of Commitments, paragraph 9.1(e): Policy Development Process***

15. On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”), please provide your assessment of whether the policy development process in ICANN facilitates enhanced cross-community deliberations and effective and timely policy development as specified in the Affirmation ¶ 9.1 (e)? Can you identify a specific example(s) when the policy making process in ICANN did or did not facilitate cross-community deliberations or result in effective and timely policy development? Are there issues related to this provision you believe should be addressed or investigated by the ATRT2? If so, please provide specific information and suggestions for improving the policy development process to facilitate cross-community deliberations and effective and timely policy development.
16. On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”), please provide your assessment of ICANN staff adherence to the policy decisions of the ICANN policy development process in its operational activities. On a similar scale, please indicate the level to which ICANN staff has been accountable to the ICANN community in its

activities. Can you give examples of where ICANN staff has restricted its decision-making to the boundaries set by the Policy Development Processes or gone beyond those boundaries to either make new policy or replace existing policy without Community development process or consultation? Are there specific accountability issues the ATRT2 should explore related to ICANN staff's interactions with the Community policy development process?

## **Security, Stability & Resiliency of the DNS Review Team (SSRRT)**

1. On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”), please indicate the level to which the ICANN Board and staff have effectively, transparently, and fully implemented the recommendations of the SSRRT. Please provide specific information as to why you believe the recommendations have or have not been effectively, transparently, and fully implemented. What metrics do you believe would be appropriate to measure effectiveness, transparency, and completeness of recommendation implementation?
2. On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”), please indicate the level to which the implementation of the SSRRT recommendations has resulted in the desired improvements in ICANN. Please provide specific information as to why you believe the recommendations have or have not resulted in improvements. What metrics do you believe would be appropriate to measure improvements?

## **WHOIS Policy Review Team (WHOIS)**

1. On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”), please indicate the level to which the ICANN Board and staff have effectively, transparently, and fully implemented the recommendations of the WHOISRT. Please provide specific information as to why you believe the recommendations have or have not been effectively, transparently, and fully implemented. What metrics do you believe would be appropriate to measure effectiveness, transparency, and completeness of recommendation implementation?
2. On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”), please indicate the level to which the implementation of the WHOISRT recommendations has resulted in the desired improvements in ICANN. Please provide specific information as to why you believe the recommendations have or have not resulted in improvements. What metrics do you believe would be appropriate to measure improvements?

## **Improving Accountability & Transparency**

1. How do you evaluate overall accountability and transparency of the ICANN processes? On a scale of 1 to 10 (1 meaning “none” and 10 meaning “full”), how would you rate the participation of the community in accountability and transparency issues? Are there other issues that should be addressed or investigated by the ATRT2 consistent with its mandate? If so, please provide specific and detailed descriptions of any such issues along with an explanation as to why such issues should be addressed by the ATRT2.
2. Are there other questions we should be asking consistent with the mandate of the ATRT? What are those questions? How would you answer those questions?

## **Affirmation of Commitment Reviews**

1. On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”), please rate the effectiveness and efficiency of the Affirmation of Commitment review team processes. Please provide specific information as to why you believe the Affirmation review team processes have or have not been effective and efficient. What metrics do you believe would be appropriate to measure ATRT effectiveness and/or efficiency?
2. Have you/your community had sufficient time to review their recommendations and ICANNs implementation of the recommendations? If not, how much time do you believe is necessary?