

ICANN IRP

Presentation to ATRT3

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- IRP in Bylaws:
 - First appearing in Bylaws effective as of 15 December 2002;
 - Before that reference to ‘Advisory Committee on Independent Review’;
 - IANA Transition - CCWG Accountability, Final Report, [Annex 07](#):
 - Proposed new IRP, with binding/enforceable decisions and a revised standard of review.
 - ‘Current’ IRP adopted as part of IANA Transition in October, 2016.

- IRP – **Pre-IANA** Transition - highlights:
 - Review of **Board** decisions/actions claimed to be inconsistent with Articles/Bylaws;
 - More narrow standard of review than current IRP;
 - IRP Panel could **recommend** that ICANN stay action/decision pending ruling;
 - Board had to **consider** IRP Panel decision.

- IRP – **Post-IANA** Transition - highlights:
 - Review of actions/inactions by **Board, individual directors, officers or staff members** claimed to be (1) inconsistent with Articles/Bylaws, (2) failure to enforce IANA contract, and (3) claims regarding PTI service complaints. (Four specific exclusions dealing with certain EC claims (relating to PDPs), ccTLD delegations and re-delegations, and claims regarding Internet numbering resources and protocol parameters.)
 - Broader, **'de novo'** standard of review than prior IRP;
 - IRP Panel **authority to 'declare'** whether action/inaction violates Articles or Bylaws (and address IANA contract/PTI services issues);
 - Broader interim-relief authority;
 - Panel decisions (subject to appeal to full standing panel) are **final, binding, enforceable.**

- IRP generally:
 - Form of arbitration – intended as alternative to litigation;
 - Claimants – any natural or legal person, group, or entity (includes EC, SOs, ACs);
 - IRP Panel – three members selected from Standing Panel;
 - De Novo review;
 - Appeals to full standing panel;
 - Final, binding, enforceable decisions.
 - Intended to create precedent.

(Bylaw 4.3 for IRP and Annex D, Section 4.2, for EC IRP.)

- IRP Implementation Oversight Team (IOT) – Bylaw section 4.3(n)
- Work to do:
 - Finish Supplementary Rules of Procedure;
 - Develop rules for Cooperative Engagement Process;
 - Recommend training for Standing Panel;
 - Develop recall process for members of Standing Panel;
 - Consider designing specialized rules for PTI service complaints;
 - Develop procedures if ICANN elects not to respond to an IRP;
 - Develop standards/rules governing appeals
 - Consider developing additional independence requirements for panelists.