

Statement of the Non-Commercial Stakeholder Group on the Deferral of Country Code Names Supporting Organization Review

The Non-Commercial Stakeholder Group (NCSG) welcomes the opportunity to comment on the Deferral of Country Code Names Supporting Organization (ccNSO) Review.

The NCSG opposes deferral of the mandatory ccNSO Review. We believe that these Reviews are an essential component of ICANN's accountability regime and that keeping to the Bylaws-mandated schedule is important in order to maintain public confidence in the integrity of ICANN and its commitment to being a truly accountable organization.

The ICANN Bylaws are clear. Per §4.4:

“These periodic reviews shall be conducted no less frequently than every five years, based on feasibility as determined by the Board. Each five-year cycle will be computed from the moment of the reception by the Board of the final report of the relevant review Working Group.”

Sadly, this Review is already late. The most recent review of the ccNSO was submitted to the ICANN Board on 4 March 2011. If this proposal is accepted, the further delay will cause this Review to be almost 2.5 years behind schedule. That would be unacceptable. This is the first AC/SO Review to be initiated under the new Bylaws. ICANN needs to adhere to the new Bylaws faithfully, particularly those concerning accountability, if they are to have the desired effect.

We reject any suggestion that the Bylaws allow the Board to postpone Reviews beyond the mandated five-year period. Indeed, to read this provision of these Bylaws as to allow the Board to indefinitely postpone Reviews in that way would set a dangerous precedent. It also is not permitted.

The feasibility sub-clause of §4.4 is exactly that: a subordinate subclause. The Board is to cause the Reviews to occur whenever it deems feasible **within** the mandatory five-year period. Note the word 'shall' - this is an absolute requirement. This subclause does not allow the Board to postpone reviews, as proposed, beyond the mandatory five-year period. That it has done so in the past is no reason to countenance such conduct now. After all, one of the reasons ICANN has had to undergo such extensive renovation is that the community felt it had not been committed to true accountability. Postponing the first SO/AC Review by 2.5 years does not engender confidence that anything has really changed.

We are sympathetic to the Board's concern about community workload. We do note that much of the work in organizational reviews is conducted by third parties retained by ICANN specifically for that purpose. That portion of the work should not overly tax community resources. In addition, we note that substantive Reviews begun since the transition have not suffered from a lack of volunteers.

It is essential that the newly independent ICANN maintain the confidence of the community and the public by rigorously adhering to its new commitment to accountability. Postponing the start of the first organizational review to be conducted post-transition, a review that is already late to begin, is not a way to do this. We encourage the Board to reject this proposal to delay this accountability Review and to proceed with the Review, as scheduled, later this year.

Thank you for considering our remarks.