

CCPDP – Review Mechanisms

Issues relating to ICANN governance mechanisms as identified at the CCPDP-RM call of 20210421.

From the topics list:

Topic Cluster 1: ICANN Corporate Governance Fundamentals

- Timing of review of decision
ICANN Board role is to confirm the process went as expected.
- Complete re-hearing vs. administrative review. Complete re-hearing to be interpreted as Full review of the decision. Review must be a substantive review (not how it was done)
- Scope (Binding and replacing previous decision or handing back to previous decision-maker, taking into account decision of panel))
- Is the scope still open? Binding decision of IANA or Board?

Potential discussion points/questions to begin conversation with ICANN Legal:

Key statements from meeting of 20210421:

- And you would have thought that we could have something more narrowly-focused, which is quicker, and cheaper, and more tailored to the specific requirements that we have got, rather than this Rolls Royce system for something which is important to us but it doesn't need to be full machinery that we have here for the IRP processes.
- it needs to be effective, narrow-set, and narrowly focused more to specific requirements, and accessible?

There seems to be general agreement that:

- This ccNSO appeals mechanism should be about IFO procedures for changes to ccTLDs instead the applicability of the ICANN Bylaws which is the focus of the IRP.
 - Currently the ICANN Bylaws are silent on appealing decisions wrt ccTLDs.
 - The only thing the Board approves in changes to ccTLDs is that the IFO performed its function according rules.
 - Changes to the ICANN Bylaws would be a significant undertaking which could take years.
 - Any new appeal mechanism which applies to Board decisions would have to be included in the ICANN Bylaws.
- The appeal needs to be started prior to any change being made in the Root.
 - ccTLDs believe it is essentially impossible to undo a change in the Root.
- If an appeal is started no changes can be made in the Root prior to its resolution.
 - ccTLDs believe it is essentially impossible to undo a change in the Root.

- There needs to be a very narrow window in time where an eligible party can apply for the review mechanism (repose – 30 days after an initial decision by IFO?).
 - ccTLDs believe it is unreasonable and undesirable to have a pending change to a ccTLD in the Root take a year or more to resolve.
- The mechanism should provide a decision fairly rapidly – meaning months as opposed to years as is to be the case for the IRP currently.
 - ccTLDs believe it is unreasonable and undesirable to have a pending change to a ccTLD in the Root take a year or more to resolve.
- The mechanism should be affordable for all ccTLDs that wish to use it.
 - Many ccTLDs are smaller independent operations when compared to gTLD interests and could not afford costs in the millions of dollars which are currently associated with IRP cases.