

Applicability of ccNSO policies

April 2021 Webinar

Cases of Applicability of ccNSO Policy

- Applicability of policy to ccTLDs
- Exception for ccTLD to implement policy
- Applicability of policy to ICANN in its activities towards ccTLDs

Applicability in the ICANN Bylaws

- **Section 10.1.** The ccNSO is policy development body in ICANN which shall be responsible for:
 - (a) developing and recommending to the Board global policies relating to country-code top-level domains;
- **Section 10.1.** Policies that apply to ccNSO members by virtue of their membership are only those policies developed according to Section 10.4 (j) and 10.4(k).
- **Section 10.4 (j).** Applicability of ccNSO developed policies to ICANN in its activities concerning ccTLDs

Applicability by virtue of membership (10.4(j))

- Subject to Section 10.4(k), ICANN policies shall apply to ccNSO members by virtue of their membership to the extent, and only to the extent, that the policies
 - (i) address issues that are within scope of the ccNSO according to Section 10.6(a) and Annex C;
 - (ii) have been developed through the ccPDP as described in Section 10.6, and (Annex B)
 - (iii) have been recommended as such by the ccNSO to the Board, and
 - (iv) are adopted by the Board as policies, provided that such policies do not conflict with the law applicable to the ccTLD manager which shall, at all times, remain paramount.

Exception for ccTLD to implement policy (10.4(k))

A ccNSO member shall not be bound if it provides a declaration to the ccNSO Council stating that:

- (i) implementation of the policy would require the member to breach custom, religion, or public policy (not embodied in the applicable law described in Section 10.4(j)), and
- (ii) failure to implement the policy would not impair DNS operations or interoperability, giving detailed reasons supporting its statements.

Applicability of policy to ICANN in its activities concerning ccTLDs.

- **Section 10.4 (j):** In addition, **such policies** shall apply to ICANN in its activities concerning ccTLDs. (Such policies are defined in section 10.4 (j), see slide 4)
- **Annex B, section 15.5.** In the event the Board determines not to accept a ccNSO (Supplemental) Recommendation, then the Board shall not be entitled to set policy on the issue and the status quo shall be preserved until such time as the ccNSO shall, make a recommendation on the issue that is deemed acceptable by the Board.
- **Annex C.** The scope is limited to the policy role of the ccNSO policy-development process for functions and levels explicitly stated:
 - Root Level Registry (**changes to Root zone database pertaining to ccTLDs**)
 - Policy role: **ccNSO Policy Development Process (ICANN)**
 - Executive role: ICANN (IANA)

Opinions General Counsel as included in Issue Reports

- Issue Report ccPDP3 (2017) Review Mechanism

Development of a review mechanism as outlined falls within the scope of the ccNSO policy development process as it intends to provide a review mechanism for decisions pertaining existing processes and procedures which are within the policy development remit of the ccNSO (delegation, transfer and revocation of ccTLDs) or will be developed as such (retirement of ccTLDs).

- Issue Report ccPDP4 (2020)

The selection and delegation of IDN ccTLDs is within ICANN's mission to coordinate at the overall level the Internet's domain name system, which includes coordinating the allocation and assignment of names in the root zone of the DNS.

Additionally, the issue proposed for policy development is within the scope of the policy areas identified in Bylaws, Annex C, which states that “The ccNSO's policy role should be based on an analysis of the following functional model of the DNS: (1) Data is registered/maintained to generate a zone file, (2) A zone file is in turn used in TLD name servers. The proposed PDP falls into the data entry function at the root level. Annex C identifies the ccNSO PDP in the “policy role” for such data entry function at the root zone level