

Topic Clusters and order for discussion

Overall Principles Review mechanism (Confirmed)

The purpose of the overarching principles is to set the parameters within which the policy recommendations have been developed, should be interpreted and implemented. They take into account the experiences to date pertaining to decisions relating to the delegation, transfer, revocation and retirement of ccTLDs. They are proposed to structure, guide and set conditions for the recommended policy for a review mechanism, its implementation and future interpretation.

General Principles

- 1. Preserve the Stability, Security, and Interoperability of the DNS.** The rules for the review mechanism should be developed, implemented, and interpreted to ensure the security, stability, and interoperability of the DNS, which should remain paramount (Additional note 07 July: negative *external side-effects* of the RM on DNS should be limited as much as possible).
- 2. Predictability and Legitimacy of process.** The (outcome) of the processes of delegation, transfer, revocation, and retirement of ccTLD should be stable and the (outcome of the) process should be reasonable and predictable to all Significant Interested Parties, including the ccTLD Manager.

Specific Principles

In addition, three (3) specific consideration have been identified by the WG to date - derived from these two general principles – which should be to guide the development, implementation, and interpretation of the policy:

- 3. Low-cost of Process.** The total costs of the process and costs for individual parties should be as limited as possible in comparison to litigation in courts
- 4. Limited Duration of process.** The total duration of the review mechanism process should be limited to ensure stability of DNS and availability of the ccTLD.
- 5. Accessibility of the process.** Non- costs thresholds and barriers should be low and reasonable ensuring easy access to the procedure to the relevant stakeholders.

6. Fundamental Fairness. Due process, with due notices, opportunity to be heard, be aware a matter is pending, and informed choice to be make a choice whether to contest and assert the choice before the appropriate body.

(Additional note 07 July: Fundamental Fairness is topic cluster 4).

Topic Cluster 1: ICANN Corporate Governance Fundamentals

Topic	Who?	When?
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: Outcome RM: Binding and replacing previous decision or handing back to previous decision-maker, taking into account decision of panel? See Background material: Bernard’s email dated 28 May 2021. This email includes the Sidley memo which was already circulated (but is included in this email again), the Jones Day memo (ICANN external counsel) in response to the Sidley memo. The third relevant doc is Annex 7 of the WS1 report which details the recommendations regarding the IRP.		
Is the scope still open?		
Binding decision of IANA or Board?		

Topic Cluster 2: Relevant policy references

Topic	Who?	When?
Reference to delegation, transfer, revocation, and retirement?		
<p>Process and policy MUST be “timeless”</p> <p>The point of inclusion is that the policy be ‘timeless’ was that if there is superseding policy coming out for the ccNSO in the future, it is automatically applicable instead of locking the RM to RFC 1591 and FOI specifically.</p>		
The reference to RFC1591 as a source doc as interpreted by the FOI sets the parameters for the RM, especially the decision-making etc.		

Topic Cluster 3: Applicability of ccNSO policies.

Topic	Who?	When?
Applicability of ccNSO policies		

Topic Cluster 4: Fundamental Fairness/some ccNSO members cannot go to court

Topic	Who?	When?
Fundamental Fairness/some ccNSO members cannot go to court	Eberhard Lisse	21 July 2021

Topic Cluster 5: Rules and Procedures

Topic	Who?	When?
<p>Rules and Procedures of processes What must be included? What would be nice to include, when does reference suffice?</p>		
<p>Internal Procedure Must be exhausted first i.e. CONDITION to be eligible to enter into RM?</p>		
<p>Look at existing mechanisms to build on summary requirements: At least one external, independent tribunal. Binding decision replacing the litigated decision? “ tribunal” was the language used by Nigel. Broader interpretation. Does not automatically mean arbitration 4 stages: Internal review. By the people that made the decision</p> <ul style="list-style-type: none"> ○ Mediation ○ “Binding” tribunal decision. Tribunal used to mean “adjudication by external entity. Could be 1 or many adjudicators ○ Court proceedings 		
<p>Process must have set pre-defined milestones and timelines</p>		

Topic Cluster 6: Choice of law

Topic	Who?	When?
Choice of law		

Topic Cluster 7: Determine who has standing at panel?

Topic	Who?	When?
Determine who has standing at panel? Who should be eligible to launch Review? Has been discussed and is included in the spreadsheet.		