

Summary of the Initial Report on the Proposed Policy for a Review Mechanism for IFO decisions which apply to ccTLDs (CCRM)

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In March 2017, the ccNSO Council decided to initiate the third (3rd) ccNSO Policy Development Process with the initial focus on developing a policy for Retirement of ccTLDs (Part 1), and only after the substantive work on that topic would have been concluded, focus on the development of policy recommendations for a Review Mechanism pertaining to decisions on delegation, transfer, revocation and retirement of ccTLDs (Part 2).

The ccPDP3 Retirement WG (**CCPDP3WG-RET**) began its work In June 2017 and completed its Initial Report early 2020.

The ccPDP3 Review Mechanism WG (**CCPDP3WG-RM**) began its work in March 2020.

In June 2021 the ccNSO Council decided to split these two PDPs. Following this split, the ccNSO adopted the retirement policy in September 2021 and submitted it to the ICANN Board of Directors for its consideration. The Board adopted the proposed policy at the ICANN75 meeting in September 2022.

For the CCPDP3WG-RM, according to its charter the CCPDP3WG-RM has the following goal:

“The goal of the working group (WG) is to report on and recommend a policy for a review mechanism with respect to decisions pertaining to the delegation, transfer, revocation and retirement of the delegated Top-Level Domains associated with the country codes assigned to countries and territories listed in the ISO 3166-1 and within the framework of the ccNSO Policy Development Process.”

Starting its work on March 25, 2020 in developing the proposed policy, the WG began by working through the various review mechanisms available at the time and that could be relevant for the work of the group. These procedures ranged from the internal PTI escalation process to external procedures (Arbitrage). This **exploratory phase** was concluded in June 2020.

Starting in June 2020 the group reviewed the various decision points relating to the delegation, transfer, revocation, and retirement of ccTLDs. Goal was to **identify those decisions that in the view of the WG may be subject to a review**. The results of these deliberations can be found on the wiki space of the working group. This work was completed in January 2021.

In the next phase the WG focused on **identifying the basic elements and principles for the review mechanism to be developed**. This resulted in adoption of the basic principles or requirements that a review mechanism must meet (June 2021) as well as the various building blocks for the elaboration of the review mechanism, ranging from rules and procedures for the review mechanism to governance fundamentals.

From its start in March, 2020, the CCPDP3WG-RM met 58 times (as of ICANN 75 - September 20, 2022). This work included the participation of ICANN Legal staff at a number of these meetings.

The CCPDP3WG-RM presented updates to the community on its work at all ICANN meetings since ICANN 71, including seeking feed-back on the proposals from the ccTLD community at the ICANN 71, 74 and 75 sessions.

Public comment period for the Initial report is **launched on November 29, 2022 and will be open till January 24, 2023.**

The CCPDP3WG-RM Initial Report includes the details on the recommended policy (section 2 to 6 and 9 of the Initial Report).

In addition, annexes A and B provide details and requirements for various aspects of the policy. The WG believes these details, although important, are suggestions to facilitate and guide implementation.

The Initial Report also contains sections that - although not considered part of the proposed policy itself - provide context to the recommended policy and could assist in future interpretation of the policy as well as an understanding of the considerations of the Working Group. These sections are:

- Stress tests and the results of stress testing (section 7)
- Verification that the charter questions were answered (Section 8)
- Process to date, describing the steps the WG went through in developing the proposed policy (section 10), and finally
- References (section 11)

Finally, as part of the development of this policy, the RM Working Group has created and used a wealth of background documentation such as identifying all IFO decisions pertaining to the delegation and transfer of ccTLDs. Although not part of the Policy as proposed, this material was very helpful in providing an understanding of the context and impact of the proposed review mechanism.

Objective of the Policy

The objective of the policy is to offer ccTLD managers, and applicants for new ccTLDs, as direct customers of the IANA Naming Function an independent review mechanism for specifically identified IANA Naming Function Operator (IFO) decisions.

Applicability of the Policy

The Review Mechanism for IFO decisions which apply to ccTLDs (CCRM) is available to ccTLD Managers, or applicants for a new ccTLD, who are directly impacted by an IFO decision for the following processes:

- Delegations of a new ccTLD.
- Transfers.
- Revocations (A last resort action by the IFO).
- Refusal to grant an extension to the retirement deadline per the CCNSO Retirement Policy.
- Notice of Retirement for two-letter Latin ccTLD which does not correspond to an ISO 3166-1 Alpha-2 Code Element per the CCNSO Retirement policy.
- Any other policy developed by the ccNSO and adopted by the ICANN Board which allows ccTLDs to appeal a decision by the IFO.

Review Mechanism for IFO decisions which apply to ccTLDs (CCRM)

CCRM Proposed Process Overview

- IFO takes a decision that is subject to review.
- The ccTLD Manager, or an applicant for a new ccTLD, applies for a Review.
- The CCRM Manager accepts the application.
- Reviewer(s) complete the review.
- If no significant issues were found by the Reviewer(s) the review process is concluded and the IFO decision is confirmed.
- If significant issues were found by the Reviewer(s) the IFO has three options:
 - 1) The IFO accepts the results and adjusts its decision – this would conclude the review process.
 - 2) The IFO accepts the results but opts to redo the process which resulted in the original decision. Once the IFO completes the redo of the process, the original applicant must decide to:
 - Accept the new results – this will conclude the Review process.
 - Apply for a Review of the new decision by the IFO (in such a case if the Reviewer(s) find significant issues the IFO will only have two options – Accept or Reject the findings).
 - 3) The IFO rejects the results:
 - If the IFO decision requires Board approval - the IFO shall include the findings from the review in its recommendation to the Board for confirmation.
 - If the IFO decision does not require Board approval, the ICANN CEO and the ccNSO Council shall be advised of the situation.

Parties involved

- ***The CCRM Manager.*** The CCRM Manager must be a non-conflicted individual who is a Subject Matter Expert with respect to ccTLDs, the IFO and ICANN and who will be responsible for overseeing and managing the CCRM system. The office of the CCRM Manager will be funded and managed by ICANN.
- ***Applicant and Claimant to the CCRM.*** The Applicant and Claimant must be a ccTLD Manager except in the case of the delegation of a new ccTLD where any applicant for that new ccTLD is eligible.

To launch a CCRM, the Claimant must submit an application via the CCRM website to the CCRM Manager in English within 30 days of the Decision being made except if the Applicant has requested an IFO internal review or IFO Mediation. If the Applicant has used these other mechanisms, within 30 days of the Decision being made, it will be granted 30 days to apply for a CCRM after these processes are completed.

By submitting an Application, the Claimant will agree to the rules for the Independent CCRM, which will include a clause preventing the Applicant from taking the CCRM Manager, Reviewers, the CCNSO, or ICANN to court with respect to the CCRM process or findings (The Working Group recognizes that this in no way prevents the Claimant from taking the IFO or ICANN to a court with relevant jurisdiction regarding the Decision by the IFO and approval of this Decision by the ICANN Board).

- **The reviewers.** All Reviewers will be certified, managed, and supported by the CCRM Manager. Reviewers will be paid for by ICANN/IFO.

Reviewers must be impartial.

Certification requirements will include a minimum of 10 years of practical experience with respect to ccTLD administration and IFO processes as well as the ability to function in English. Findings from the Reviewer(s) cannot be appealed. All Reviewers will be certified, managed, and supported by the CCRM Manager.

- **The IFO.** Takes a decision that is subject to review under the proposed. After reaching a decision on a ccTLD request which can be Reviewed, the IFO will advise those parties who could apply for a CCRM of the Decision and of their options for Reviewing the Decision as well as the timeline for doing so.

Oversight

This Policy is directed at ICANN and the IFO as the entity that performs the IANA Naming Functions with respect to ccTLDs.

This Policy is not intended and shall not be interpreted to amend the way in which ICANN interacts with the IFO and the delineation of their roles and responsibilities.

The proposed policy will not change or amend the (limited) role that the ICANN Board of Directors has, with respect to individual cases of ccTLD Delegation, Transfer, Retirement, Revocation, or any other policy developed by the ccNSO and adopted by the ICANN Board which allows ccTLDs to review a decision by the IFO.

Recommendations regarding ICANN Bylaws Sections 4.2 (d) (i) and 4.3 (c) (ii).

The ccPDP3WG-RM recommends that all disputes and claims regarding the delegation, transfer, revocation and retirement of ccTLDs remain and are excluded from ICANN's Reconsideration Request Process and the Independent Review Process (see ICANN Bylaws Sections 4.2 (d) (i) and 4.3 (c) (ii)), and recommends the amendment of the Bylaws accordingly.