

# Topic Areas for ccTLD Policy Reviews

([Original email](#) for reference)

## Introduction

This is a set of issues for ccNSO consideration where IANA has observed operational difficulties due to a lack of policy, or where the operational realities may be viewed as not meeting the original intent of the policies.

For many of these issues, remediation could be foreseen either through policy development (updating governing ccTLD policy to explicitly cover the case), or through operational implementation (recognizing that it is an operationalization decision how to interpret that cases within the framework of the existing policy). However in some cases, there could be a view that it is not a problem that should be addressed through either means, and that the status quo is acceptable or desirable.

### 1. IANA data accuracy

The authoritative records published by IANA (i.e. in the root zone database) determine who is the authorized manager of a ccTLD, their official contacts, and other aspects. However, the operational reality for a ccTLD registry may differ from that recognized and published by IANA (i.e. the “ground truth”).

This can be caused by a number of underlying reasons, such as lack of awareness or deliberate attempts to circumvent the policies.

IANA only acts to update its database at the direction of the ccTLD manager based on requests that are qualified under policy. IANA does not currently pro-actively update records, except for minor typographical/formatting related amendments. IANA does not have a practice or capacity for continuously monitoring ongoing adherence to global policies outside the context of change request processing.

- 1.1 What should be done when IANA records differ from the practical reality of who administers a ccTLD?
- 1.2 What rights, if any, does a party have to be ccTLD manager if they are not recognized by IANA?
- 1.3 What obligations are there for ccTLD managers to make timely updates to the particulars of their domain, and in advance of practical changes when it comes to changes where they needed to be assessed for eligibility against a policy?
- 1.4 What role, if any, does IANA have to proactively and/or unilaterally update records it maintains that are known to be inaccurate?
  - 1.4.1 If IANA does act proactively made amendments to reflect such de facto situations, how do you discourage inventivizing bad behaviour by managers in the knowledge IANA will “clean it up” by some other process?
  - 1.4.2 What happens if the underlying change does not comply with global policies?

- 1.5 Does privacy legislation and the associated obligations of publishing accurate data factor into the approach?

## 2. Purpose of public records

There is no framework through which to assess why public records are published by IANA in the current policies. The structure of the contact model is largely inherited from the pre-ICANN era through the hand-off of InterNIC responsibilities.

It is assumed there is a fundamental public interest need to identify who the entity is that is authorized to operate a TLD manager, and having corresponding points of contact associated with that entity.

Customers often ask IANA who is appropriate to list as the administrative and technical contacts, and there is little to guide such decision making other than the local presence requirement for administrative contacts.

While IANA maintains historical records, it rarely publishes this data and only makes it available on request for limited circumstances. It does, however, rely on such records for fact-finding relating to its investigations.

- 2.1 What is the purpose of public records (i.e. in the root zone database) that pertain to ccTLDs? What are the public interest reasons for having such records?
- 2.2 What are the policy requirements around each attribute of the public record?
- 2.3 To what extent is IANA empowered to define a purpose as an operational decision?
- 2.4 To what extent is IANA empowered to evolve the contact model beyond the current process? For example, are technical contacts mandatory? Could other form of contacts be provided? Can fax numbers be eliminated?
- 2.5 What, if any, historical records retention expectation is there that should be defined by policy?

## 3. Enforcement and/or graduated compliance options

At present there are two approaches available to IANA to address non-compliant situations. One is simply asking the manager to comply, and the other is revocation for cause. These two options are at two extreme ends of a range of conceivable approaches, but there is a lack of graduated options today between those two.

On revocation for cause, the Framework of Interpretation defines the kind of conduct that, should the ccTLD manager be unable to cure, are grounds for a revocation. However, assuming the ccTLD needs to remain operating, such an action would practically require identifying a qualified successor ccTLD manager in tandem. Revocation for cause, therefore, is unlikely to ever be practical unless it is driven by a motivated successor who is seeking transfer. Existing ccTLD manager presumably has all the necessary business records and infrastructure to sustain operations, thus must be cooperative in this process. Therefore, revocation for cause is likely to be practical only in a case where the operator is fundamentally defunct, not where they are simply not abiding by global policy but otherwise operative.

Current experience demonstrates that expecting voluntary compliance is insufficient to maintain up-

to-date records. There may be a notion that there is local accountability and oversight in local Internet communities within the ccTLD's jurisdiction to mitigate these concerns, but that seems insufficient given the number of cases where compliance remains an issue. Third parties who report compliance issues to IANA, from the ccTLD's local Internet community, often expect that IANA is empowered to take meaningful steps to have those issues remedied.

- 3.1 What, if any, additional mechanisms are needed to be added to attain a greater level of compliance with policy requirements?
- 3.2 Is there a role for IANA publically reporting on non-compliant situations purely as a transparency measure?

#### **4. Ensuring eligibility assessment occurs before practical changes**

The policies are operationalized by assuming that the IANA role is to evaluate request to change a ccTLD manager, and only make changes once they are determined to meet policy requirements. These determinations are only performed upon submission of a change request to IANA. There are significant gaps in cases where significant changes are made to the ccTLD manager prior to seeking review by IANA. Asking for a transfer *after* changes on the ground frustrates the intent of performing a meaningful review and approving it. Approval is presumed by the policy to condition the outcome.

- 4.1 What obligations does ccTLD manager has to request transfer in advance of changes to ground truth? Is it an absolute requirement for requests to be reviewed and implemented by IANA prior to changes to ground truth?
- 4.2 What, if any, aspects of IANA review against global policies should be considered moot (i.e. skipped) when changes do happen prior to IANA review?
  - 4.2.1 In such cases, how do you avoid incentivizing conducting transfers in practice, and then coming to IANA after-the-fact?
- 4.3 If ground truth changes prior to IANA review, in a subsequent IANA review request, what should IANA do if the ground truth is determined to not meet global policy?

#### **5. Local presence**

The current policy guidance in RFC 1591 stipulates that "... at least the administrative contact must reside in the country involved." The current IANA interpretation of this presence requirement is to assess not just the self-reported location of the administrative contact, but where the ccTLD manager (as a legal entity) is domiciled, and where primary operations are conducted. This is under an interpretation that the local residence requirement is to ensure the ccTLD is answerable under local accountability measures within the country or territory's jurisdiction.

The current IANA interpretation is more specific than the text of the policy. The policy only calls speaks of the "administrative contact", however today that contact is merely just a nominal point-of-contact and may not have any meaningful connection to who or how the ccTLD is operated. Additionally, the administrative contact can just be a role account rather than a natural person, making a jurisdictional test difficult to apply.

- 5.1 What is the purpose of the local presence requirement? Does the purpose of jurisdictional nexus need to be more clearly articulated?
- 5.2 Is the local presence requirement sufficiently ensured by the policy language and IANA's operational implementation of it?

In the case of dependent territories, IANA has a flexible requirement for local jurisdiction, in that it can be either territorial, or that of the parent country. This is partly an accommodation for unpopulated territories, or territories that cannot sustain sufficient operational posture, or has a mature oversight structure befitting a ccTLD.

- 5.3 Is this a satisfactory definition of jurisdiction scope?
- 5.4 If there is a conflict between law and/or significantly interested parties between the country and territory level jurisdiction, what should happen?

Consider nominal points of contact listed in the IANA database, either personnel who have little to no involvement in operations, or proxy local addresses where the contact is primarily resident out of the country, to satisfy the requirement for a local administrative contact.

- 5.5 For contact requirements, what is the minimum level of acceptable local presence and how should that be assessed?

## 6. Resignation

There is no specified policy on how a ccTLD manager, or a public point-of-contact, can resign from their role. It is assumed and operationalized that any time a ccTLD manager or a contact no longer wishes to perform their role, they will be replaced by a change request that identifies their successor. Such changes are predicated on fulfilling global policy requirements (such as being in the country). There is no identified capacity for these roles to be declared vacant, and even if there were, if the ccTLD is still operational will result in a divergence between IANA's records and ground truth (see issue #1).

Consider the following scenarios:

- Staff of the ccTLD manager leave the organization and move meaningful operations with them, and as a consequence the IANA-recognized ccTLD manager has waived all responsibility and wanted to be removed.
- An employee/agent of a ccTLD manager resigns their role and no longer wishes to be listed on the public record for the TLD. IANA currently has no mechanism to delist them without a successor being identified.
- Consider the case where the successor is either known or identified, but is not compliant with policy e.g. is out of jurisdiction.

- 6.1 What should happen in cases where a ccTLD manager wants to step away from their role?
- 6.2 What happens if a ccTLD manager hands off operation to a wholly different entity?
- 6.3 What should happen when a published contact asks to be removed from the record, but the ccTLD manager does not provide a qualified replacement?

## 7. Minimum level of involvement

There is a wide gamut of operational situations for ccTLD managers. Some ccTLD managers are responsible for every aspect of the ccTLD, from policy setting to technical platform to operations and providing direct registrations services. However, in many cases, there are a complex set of interrelated parties with different responsibilities. For example, a ccTLD manager may rely significantly on a registry back-end service provider to operate their technical platform, and on registrars for interactions with registrants.

In some cases, the identified ccTLD manager has little to no actual involvement in management of the ccTLD. For example, the entity has effectively delegated all meaningful responsibility to another party. This has the practical effect of obviating the ability to implement or oversee global policy requirements that exist for ccTLDs. Some ccTLD managers have indicated this is a deliberate strategy to have the flexibility to operate the ccTLD free from such requirements.

As a practical matter, in these cases IANA often has difficulties in reaching decision makers or identifying the true parties that are managing the domain. It also can frustrate the timely operation of the domain because these intermediaries, that IANA must work through, are unresponsive or are unqualified to answer questions.

IANA has specified operational definitions to discourage more egregious cases, but even then compliance can be difficult to assess. Consider:

- Entities that are merely a passthrough to a long-term concession holders (presumably not acceptable)
- The role of registry service providers, where the ccTLD manager still sets policies and has material day-to-day responsibilities, even if they don't operate the technical platform or interact with registrars (presumably acceptable)
- Cases where a structure is implemented to deliberately avoid changes being subject to global policy requirements, particularly in the case where practical operations are move beyond local jurisdiction. Local accountability can be made irrelevant if manager moves material operations beyond their jurisdiction.

Part of these challenges come down to a lack of definition of what is the minimum level of expected involvement of a ccTLD manager (and for that matter, the administrative contact as a vehicle for local accountability). Without such a definition and associated enforcement, there is an inability to assess whether a ccTLD manager actually materially manages the domain themselves or not.

7.1 Does there need to be definitions for what the minimum obligations of a ccTLD manager to do directly?

Consider nominal points of contact listed in the IANA database, either personnel who have little to no involvement in operations, or proxy local addresses where the contact is primarily resident out of the country, to satisfy the requirement for a local administrative contact.

7.2 What requirements should be assessed for points of contact?

## 8. Active compliance monitoring

IANA does not have a significant program of ongoing monitoring that its records are up-to-date, or that ccTLD managers are otherwise continuing to meet the global policy requirements. There are only some less formal initiatives, such as periodical testing of email addresses and postal addresses, performed only on a best effort basis.

When IANA becomes aware of an issue through a third party report, it will seek to notify the ccTLD manager and ask them to cure the problem. It is however fundamentally only when a change request is received that a comprehensive assessment is made relating to meeting policy requirements.

8.1 Should IANA have a program of actively measuring compliance of the various requirements for ccTLDs?

## 9. Disaster recovery

Generally, disaster recovery for a ccTLD is considered wholly the responsibility for the ccTLD manager and its local community to address. However, when it isn't addressed, the parties often look to IANA for mechanisms to address it, and IANA is expected to do what it reasonably can to address threats to the operation of a ccTLD.

Data escrow is one approach that may address different forms of disaster recovery. Such arrangements would see the ccTLD manager regularly deposit necessary business records with a trusted third party, to be released on pre-defined conditions in the event of a disaster or adverse event.

Such escrow can be a remedy to jurisdictional issues. Many local communities believe IANA has a capability to enforce repatriation of operations of ccTLDs when they are moved outside of jurisdiction, which is not the case. The ability to utilize escrow deposits in such cases potentially empowers the local community to take redress steps.

IANA advises, during a ccTLD transfer or delegation process, that considering such escrow is advisable but has no requirements or practices in this area.

9.1 What, if any, requirements should be established around disaster recovery and/or the ability to sustain ongoing operations of the domain in the case of disaster or non-compliance with global policies?

Another area of disaster recovery is where ccTLD managers have sought to make private arrangements with IANA on special procedures to perform in such emergencies. In essence, they would seek to pre-define a set of conditions under which IANA would seek to recognize another party to manage the domain, through mutual agreement. This is partly driven by the recognition that a

formal transfer of a ccTLD may take months to perform, but a fast response would be expected to immediately restore ccTLD operations in an emergency where the ccTLD manager has failed.

9.2 Should there be any policies regarding how such arrangements are made?

9.3 Is IANA empowered to establish such arrangements? Should such arrangements provide for temporarily circumventing policy requirements in necessary emergencies?

## 10. Request confidentiality

Requests to perform fundamental actions on a ccTLD (delegate, transfer, revoke) are generally processed confidentially by IANA. In a monthly report, requests that are deemed substantive are identified along with the name of the associated party. At the conclusion of a successful request of this nature, a report is published that distills key factors in the evaluation.

This has been a practice, stipulated by contract, but is not policy. Some have requested greater transparency into individual cases or the ability in the process to contribute their position into the assessment. The current practice does not provide an explicit pathway for such input.

10.1 Is the current approach appropriate?

10.1.1 Should there be different level of public visibility into requests?

10.1.2 Should there be an explicit process for public input into a request?

10.2 Should this be specified as policy or operational procedure?

## 11. Lack of clear statement of current policies

Currently policies are specified by a number of documents that are not presented cohesively. It requires specialized expertise to parse the documents, expertise that customers of the IANA functions generally do not have. The most cited policy document — RFC 1591 — contains incorrect or irrelevant material to ccTLD policy. This causes customer service challenges as IANA must significantly interpret and caveat references to policy documents for its customers.

Compare this situation with other policy bodies in ICANN, which often have a clear statement of their entire set of active policies clearly stated. RIRs often have policy manuals that are kept in lock-step with operational procedures.

These issues could be addressed through improved IANA documentation that provides a user-friendly portrayal of the policies along with any operational implementation details that go along with it. However the ccNSO may wish to consider whether it wishes to recast key documents like RFC 1591 as modern documents with the references to irrelevant or outdated materials removed. Such work wouldn't necessarily change the policy itself, but restructure them to remove irrelevant and wrong information, to use consistent terminology, into a unified framework.

11.1 Should there be work to restate current ccTLD policies in a cohesive manner?

11.1.1 Should it be done through ccNSO policy making?

11.1.2 Should it be done by IANA as part of its customer operational documentation?