

Template of Reconsideration Request Reforms

1. Standing

Amend "who" has proper standing to file a Reconsideration Request to widen its scope to include any party impacted by the ICANN decision / inaction.

2. Standard of Review

Amend the standard of reviewing a Reconsideration Request to include a re-examination of the underlying merits of arguments and decisions.

Also broaden the types of decisions which can re-examined.

Also, amend when BGC may "summarily" dismiss a request (for example: dismissal based on Requester not participating in a public comment period on the issue).

Make it clear that a frivolous claim amounts to a cost that would be extraordinary in nature (para 9).

And in paragraph 9 (ii) delete the word "querulous" and in paragraph 9 (iii) add "actual" to "notice."

3. Composition

Need less reliance on the legal dept to guide the BGC on its recommendations and more board member engagement in decisions.

Amend rules so BGC does not have the option of making final decisions (RE: staff action/inaction and 3rd party panels) without fuller board briefing and discussion of the issues.

4. Selection

N/A

5. Decision-making

Transparency improvements are needed regarding the information that make up the decision-making process.

Reconsideration Request decisions currently have "precedential value" - so a party affected by a previous decision should be able to challenge the previous decision to which his case is bound under precedent. However, if a precedent is over-ruled it does not re-open old cases.

6. Accessibility

Extend the time deadline for filing a Reconsideration Request to 60 days [from when Requester learns of decision].

Currently, the deadline for filing is (generally) 15 days from when decision/action is taken and posted or when one can reasonably conclude action/decision will not happen.

7. Implementation

Requestors may need a follow-up process regarding implementation of decision reconsidered.

8. Due process

Provide all briefing materials supplied to board to Requester so that they may know the arguments against them and have an opportunity to respond (subject to legitimate and documented confidentiality requirements).

Final decisions should be issued sooner.

Requests for "urgent" reconsideration should be broadened and less subjective in criteria for acceptance of "urgency". Requests considered "Urgent" should take into account legitimate business needs for relative certainty of rules in a timely fashion.