

Operational Standards – ICANN Organizational and Specific Reviews: Skeleton Outline

This is a first draft outline of the Operating Standards, providing an overview of the various elements that could be part of the final document.

While much of the final document will set administrative guidelines, there are a number of substantive issues that need to be addressed, most prominently the nomination, selection and composition of Review Teams and the amendment process of these operating standards once they are in force.

Below you find a number of questions that could help frame parts of the substantive discussion. Please note, this list of question is neither exhaustive nor final:¹

How should the SO/AC Chairs' selection process work in detail, to assure efficient proceedings, while adhering to all Bylaw requirements?

How to assure diversity in Review Teams?

How to integrate newcomers into reviews?

How to assure that subparts of SO/ACs (AT-Large regions, GNSO SG/Cs, etc.) are all adequately represented across different reviews?

How do we ensure institutional experience between different reviews whilst assuring to recruit new members to future Review Teams?

How to include non-affiliated subject matter experts in the selection process for Review Teams?

Who should be allowed to propose changes to the operating procedures once they are in place?

What procedure should be in place to amend the operating procedures once they are in place?

Please note: All text **in blue** (other than headlines and hyperlinks) is lifted directly from the ICANN Bylaws.

¹ These questions are also listed in the relevant section below.

Introduction to Reviews

Reviews derive from ICANN's Bylaws, they are based on community supported standards and criteria, so that all reviews are conducted in a predictable, consistent and efficient manner, in line with best practices for broadly similar reviews and assessments. Reviews are an integral part of ICANN's accountability mechanisms and, according to the Bylaws, there are two kinds of reviews that ICANN conducts: Organizational Reviews and Specific Reviews.

Value of Reviews

TBD

Organizational Reviews

Introduction

Deriving from Section 4.4 of ICANN's Bylaws, Organizational Reviews assess the performance of ICANN's Supporting Organizations and Advisory Committees, as well as the Nominating Committee (NomCom):

- [At-Large Advisory Committee](#)
- Address Supporting Organization ([ASO](#))
- Country Code Names Supporting Organization ([ccNSO](#))
- Generic Names Support Organization ([GNSO](#))
- [Nominating Committee \(NomCom\)](#)
- Route Server System Advisory Committee ([RSSAC](#))
- Security and Stability Advisory committee ([SSAC](#))

Note, for the Board of Directors and [Technical Liaison Group](#) (TLG), ICANN Bylaws do not mandate reviews. Similarly, the Governmental Advisory Committee (GAC) is excluded from review requirement and conducts its own review mechanisms as per the Bylaws.

Specifically, the ICANN Bylaws prescribe that: 'The Board shall cause a periodic review of the performance and operation of each Supporting Organization, each Supporting Organization Council, each Advisory Committee (other than the Governmental Advisory Committee), and the Nominating Committee [...] by an entity or entities independent of the organization under review' (Section 4.4

(a)). The Bylaws also prescribe that these reviews shall be conducted no fewer than every five years. An exception is the Governmental Advisory Committee (GAC) that, according to the Bylaws, ‘[shall provide its own review mechanism](#)’ (Section 4.4 (c)).

TBD

Organizational Reviews: Working Party

TBD

Organizational Reviews: Procedures of the Review Working Party

TBD

Scope of Organization Reviews

In line with the [ICANN Bylaws](#) (section 4.4 (a)), each review shall, at a minimum, ‘determine (i) whether that organization, council or committee has a continuing purpose in the ICANN structure, (ii) if so, whether any change in structure or operations is desirable to improve its effectiveness and (iii) whether that organization, council or committee is accountable to its constituencies, stakeholder groups, organizations and other stakeholders’.

TBD

Selection of Independent Examiner

TBD

Meetings Administration for Review Working Parties (Organizational Reviews)

TBD

Developing Recommendation for Review Working Parties (Organizational Reviews)

TBD

Outreach and Engagement

TBD

Report Requirements

TBD

Specific Reviews

Introduction

Prior to the 1 October 2016 adoption of new ICANN Bylaws, Specific Reviews were referred to as Affirmation of Commitment (AoC) Reviews. These reviews are now incorporated into the ICANN Bylaws. There are four Specific Review that scrutinize ICANN's progress towards four subject areas that pertain to ICANN's mission and core values:

1. Reviewing ICANN's execution of its commitment to maintain and improve robust mechanisms for public input, accountability, and transparency so as to ensure that the outcomes of its decision-making reflect the public interest and are accountable to the Internet community (Accountability and Transparency Review; Section 4.6 (b) of ICANN Bylaws);
2. Preserving security, stability and resiliency of the Domain Name System (Security, Stability, and Resiliency Review; Section 4.6 (c) of ICANN Bylaws);
3. Promoting competition, consumer trust, and consumer choice (Competition, Consumer Trust and Consumer Choice Review; Section 4.6 (d) of ICANN Bylaws);
4. Enforcing its existing policy relating to registration directory services, subject to applicable laws (Registration Directory Services Review; Section 4.6 (e) of ICANN Bylaws);

These four Specific Reviews are led by a Review Team comprised of subject experts from among the ICANN community and beyond; they shall be supported by the ICANN organization.

Scope of Specific Reviews (Section 4.6 of the Bylaws – direct quote)

b) Accountability and Transparency Review

(i) The Board shall cause a periodic review of ICANN's execution of its commitment to maintain and improve robust mechanisms for public input, accountability, and transparency so as to ensure that the outcomes of its decision-making reflect the public interest and are accountable to the Internet community ("Accountability and Transparency Review").

(ii) The issues that the review team for the Accountability and Transparency Review (the

“Accountability and Transparency Review Team”) may assess include, but are not limited to, the following:

(A) assessing and improving Board governance which shall include an ongoing evaluation of Board performance, the Board selection process, the extent to which the Board’s composition and allocation structure meets ICANN’s present and future needs, and the appeal mechanisms for Board decisions contained in these Bylaws;

(B) assessing the role and effectiveness of the GAC’s interaction with the Board and with the broader ICANN community, and making recommendations for improvement to ensure effective consideration by ICANN of GAC input on the public policy aspects of the technical coordination of the DNS;

(C) assessing and improving the processes by which ICANN receives public input (including adequate explanation of decisions taken and the rationale thereof);

(D) assessing the extent to which ICANN’s decisions are supported and accepted by the Internet community;

(E) assessing the policy development process to facilitate enhanced cross community deliberations, and effective and timely policy development; and

(F) assessing and improving the Independent Review Process.

(iii) The Accountability and Transparency Review Team shall also assess the extent to which prior Accountability and Transparency Review recommendations have been implemented and the extent to which implementation of such recommendations has resulted in the intended effect.

(iv) The Accountability and Transparency Review Team may recommend to the Board the termination or amendment of other periodic reviews required by this Section 4.6, and may recommend to the Board the creation of additional periodic reviews.

(v) The Accountability and Transparency Review Team should issue its final report within one year of convening its first meeting.

(vi) The Accountability and Transparency Review shall be conducted no less frequently than every five years measured from the date the

(c) Security, Stability, and Resiliency Review

(i) The Board shall cause a periodic review of ICANN’s execution of its commitment to enhance the operational stability, reliability, resiliency, security, and global interoperability of the systems and processes, both internal and external, that directly affect and/or are affected by the Internet’s system of unique identifiers that ICANN coordinates (“SSR Review”).

(ii) The issues that the review team for the SSR Review (“SSR Review Team”) may assess are the following:

(A) security, operational stability and resiliency matters, both physical and network, relating to the coordination of the Internet’s system of unique identifiers;

(B) conformance with appropriate security contingency planning framework for the Internet’s system of unique identifiers;

(C) maintaining clear and globally interoperable security processes for those portions of the Internet’s system of unique identifiers that ICANN coordinates.

(iii) The SSR Review Team shall also assess the extent to which ICANN has successfully implemented its security efforts, the effectiveness of the security efforts to deal with actual and potential challenges and threats to the security and stability of the DNS, and the extent to which the security efforts are sufficiently robust to meet future challenges and threats to the security, stability and resiliency of the DNS, consistent with ICANN’s Mission.

(iv) The SSR Review Team shall also assess the extent to which prior SSR Review recommendations have been implemented and the extent to which implementation of such recommendations has resulted in the intended effect.

(v) The SSR Review shall be conducted no less frequently than every five years, measured from the date the previous SSR Review Team was convened.

(d) Competition, Consumer Trust and Consumer Choice Review

(i) ICANN will ensure that it will adequately address issues of competition, consumer protection, security, stability and resiliency, malicious abuse issues, sovereignty concerns, and rights protection prior to, or concurrent with, authorizing an increase in the number of new top-level domains in the root zone of the DNS pursuant to an application process initiated on or after the date of these Bylaws (“New gTLD Round”).

(ii) After a New gTLD Round has been in operation for one year, the Board shall cause a competition, consumer trust and consumer choice review as specified in this Section 4.6(d) (“CCT Review”).

(iii) The review team for the CCT Review (“CCT Review Team”) will examine (A) the extent to which the expansion of gTLDs has promoted competition, consumer trust and consumer choice and (B) the effectiveness of the New gTLD Round’s application and evaluation process and safeguards put in place to mitigate issues arising from the New gTLD Round.

(iv) For each of its recommendations, the CCT Review Team should indicate whether the recommendation, if accepted by the Board, must be implemented before opening subsequent rounds of new generic top-level domain applications periods.

(v) The CCT Review Team shall also assess the extent to which prior CCT Review recommendations have been implemented and the extent to which implementation of such recommendations has resulted in the intended effect.

(e) Registration Directory Service Review

(i) Subject to applicable laws, ICANN shall use commercially reasonable efforts to enforce its policies relating to registration directory services and shall work with Supporting Organizations and Advisory Committees to explore structural changes to improve accuracy and access to generic top-level domain registration data, as well as consider safeguards for protecting such data.

(ii) The Board shall cause a periodic review to assess the effectiveness of the then current gTLD registry directory service and whether its implementation meets the legitimate needs of law enforcement, promoting consumer trust and safeguarding registrant data (“Directory Service Review”).

(iii) The review team for the Directory Service Review (“Directory Service Review Team”) will consider the Organization for Economic Cooperation and Development (“OECD”) Guidelines on the Protection of Privacy and Transborder Flows of Personal Data as defined by the OECD in 1980 and amended in 2013 and as may be amended from time to time.

(iv) The Directory Service Review Team shall assess the extent to which prior Directory Service Review recommendations have been implemented and the extent to which implementation of such recommendations has resulted in the intended effect.

(v) The Directory Service Review shall be conducted no less frequently than every five years, measured from the date the previous Directory Service Review Team was convened, except that the first Directory Service Review to be conducted after [1 October 2016] shall be deemed to be timely if the applicable Directory Service Review Team is convened on or before 31 October 2016.

Specific Reviews: The Review Team

The Review Team is a community body that conducts the review and drafts the final report including any recommendations for improvement.

Specific Reviews: Review Team Selection

Size of Review Team

The Bylaws state in Article 4.6(a)(i) that: ‘Review teams will be established for each applicable [Specific] Review, which will include both a limited number of members and an open number of observers. The chairs of the Supporting Organizations and Advisory Committees participating in the applicable review shall select a group of up to 21 review team members from among the prospective members nominated by the Supporting Organizations and Advisory Committees, balanced for diversity and skill. In addition, the Board may designate one Director or Liaison to serve as a member of the review team.’

Eligibility Criteria for Review candidates

General Skills

TBD

Skills relevant to the Security, Stability, and Resiliency of the DNS Reviews (SSR)

TBD

Skills relevant to Competition, Consumer Trust and Consumer Choice Reviews (CCT)

TBD

Skills relevant to Accountability and Transparency Reviews (ATRT)

TBD

Skills relevant to the Registration Directory Services Review (RDS)

TBD

Role of ICANN's Supporting Organizations and Advisory Committees (SOs/ACs)

- Each SO/AC can nominate up to seven candidates for selection.
- TBD

Final selection by SO/AC Chairs

Questions (list is not exhaustive, nor final):

How should the SO/AC Chairs' selection process work in detail, to assure efficient proceedings, while adhering to all Bylaw requirements?

How to assure diversity in Review Teams?

How to integrate newcomers into reviews?

How to assure that subparts of SO/ACs (AT-Large regions, GNSO SG/Cs, etc.) are all adequately represented across different reviews?

How do we ensure institutional experience between different reviews whilst assuring to recruit new members to future Review Teams?

TBD

Work Plan and Schedule for Review Teams

TBD

Transparency Requirement

TBD

Meeting Schedules

TBD

Meeting Agendas

TBD

Meeting Attendance

TBD

Research, Findings & Developing Recommendations for Review Teams

TBD

Outreach and Engagement of Review Teams

TBD

Deliverables and Output for Review Teams

TBD

Administrative Tools

TBD

Managing budget for Review Team

TBD

Role of Observers in Review Teams

TBD

Disclosure Framework

TBD

Report Requirements (same as Organizational Review)

TBD

Consensus Calls & Identifying Consensus Levels (TBD – look at GNSO Guidelines)

TBD

Below is the text from the GNSO Working Group Guidelines that could serve as a starting point for discussion.

These are the consensus levels according to the [GNSO Working Group Guidelines](#) (Section 3.6)

Full consensus - when no one in the Working Group speaks against the recommendation in its last

readings. This is also sometimes referred to as Unanimous Consensus.

Consensus - a position where only a small minority disagrees, but most agree.

Strong support but significant opposition - a position where, while most of the Working Group support a recommendation, there are a significant number of those who do not support it.

Divergence (also referred to as No Consensus) - a position where there isn't strong support for any particular position, but many different points of view. Sometimes this is due to irreconcilable differences of opinion and sometimes it is due to the fact that no one has a particularly strong or convincing viewpoint, but the members of the Working Group agree that it is worth listing the issue in the report nonetheless.

Minority View - refers to a proposal where a small number of people support the recommendation.

This can happen in response to a Consensus, Strong support but significant opposition, and No Consensus; or, it can happen in cases where there is neither support nor opposition to a suggestion made by a small number of individuals.

The voting procedure of how to determine the consensus level according to the [GNSO Working Group Guidelines](#) (Section 3.6):

The recommended method for discovering the consensus level designation on recommendations should work as follows:

After the Working Group has discussed an issue long enough for all issues to have been raised, understood and discussed, the Chair, or Co-Chairs, make an evaluation of the designation and publish it for the group to review.

After the Working Group has discussed the Chair's estimation of designation, the Chair, or Co-Chairs, should reevaluate and publish an updated evaluation.

Steps (i) and (ii) should continue until the Chair/Co-Chairs make an evaluation that is accepted by the Working Group.

In rare case, a Chair may decide that the use of polls is reasonable. Some of the reasons for this might be:

A decision needs to be made within a time frame that does not allow for the natural process of iteration and settling on a designation to occur.

It becomes obvious after several iterations that it is impossible to arrive at a designation. This will happen most often when trying to discriminate between Consensus and Strong support but Significant Opposition or between Strong support but Significant Opposition and Divergence.

Care should be taken in using polls that they do not become votes. A liability with the use of polls is

that, in situations where there is Divergence or Strong Opposition, there are often disagreements about the meanings of the poll questions or of the poll results.

Based upon the Working Group's needs, the Chair may direct that Working Group participants do not have to have their name explicitly associated with any Full Consensus or Consensus view/position.

However, in all other cases and in those cases where a group member represents the minority viewpoint, their name must be explicitly linked, especially in those cases where polls were taken.

ICANN Board approval of Final Report Recommendations & Implementation Plan

TBD

Amendments to these Operational Standards

TBD

Questions (list is not exhaustive nor final):

How to include non-affiliated subject matter experts in the selection process for Review Teams?

Who should be allowed to propose changes to the operating procedures once they are in place?

What procedure should be in place to amend the operating procedures once they are in place?

Appendices (TBD)

List is not exhaustive nor final

- A. Glossary and Acronyms
- B. Tools/Checklists
- C. Forms
- D. Best Practices Resources