ccNSO PDP
Review Mechanism
&
Retirement

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Topics to be covered

- Issue Report
- Principles to guide development of policy and interpretation
- Review mechanism
- Retirement
- PDPs Matters
- References

Requirements Issue report

- Description of Issues
- General Counsel opinion on scope
  - ICANN Mission & lasting value & in scope Annex C Bylaws
- 1 or 2 PDPs
- Recommendation Task force or Working Group
- Tentative timeline
- View on anticipated Board view

Current Status

- Identification of issues
- One or two PDP
- Task force or WG
- Request Council to include community in drafting WG charters

Principles to guide development of policy and interpretation

- Security and Stability of DNS is paramount

- Subsidiarity principle

- Policies should not be intended to, or should not be taken to, constrain or limit applicable law of in the country or territory represented by the particular two-letter code or IDN string, or in the state of incorporation/place of business of the IANA operator .
  - FOI principle

- Policies not to be applied retro-actively/ grandfathering of legacy cases

- Transitional arrangement (pending cases to be grandfathered)

Review Mechanism

Context Review Mechanism

- RFC 1591 Section 3.4
  - *the Internet DNS Names Review Board (IDNB), a committee established by the IANA, will act as a review panel for cases in which the* parties [BB: the Significantly Interested Parties] *can not reach agreement among themselves. The IDNB's decisions will be binding.*
  - Section 3.4 RFC 1591 is about the definition and role of Significantly Interested parties.
- FoI Wg
  - *The FOI WG believes it is consistent with RFC 1591 (section 3.4) and the duty to act fairly to recognize the manager has the right to appeal a notice of revocation by the IANA Operator to an independent body.*
- ICANN Bylaws:
  - *(d) Notwithstanding any other provision in this Section 4.2, the scope of reconsideration shall exclude the following:*
    - *(i) Disputes relating to country code top-level domain ("ccTLD") delegations and re-delegations;*

High Level Issue list Review Mechanism: Scope of Review Mechanism

- Which decisions and/or actions should be subject to a review mechanism?
- Who's decisions and/or actions should be subject to a review mechanism?
- Should review Mechanism be applicable / open to all ccTLDs?
- What will be result / scope of the review decision? What powers will be bestowed upon review panel?
- Binding or non-binding?

High Level Issue Review mechanism: Standing at review mechanism

- Who will have standing at a review mechanism?
  - Dependent on process/procedure (delegation, revocation, transfer, retirement)/
  - Entities
    - Only ccTLDs
    - Significantly Interested parties

- What are the grounds?

High Level Issues Review Mechanism: Rules and structure of review mechanism

- What set of procedural rules should be used?
  - IRP, ICC, other?
- Timelines?
  - When does a decision become effective
  - Impact of procedure
- Structure of panel and requirements and selection of panelist
  - Pool of panelist? Standing panel
  - Selection by litigating parties
- Include injunction or summary proceedings?
- Costs of proceedings:
  - who will have to pay for proceeding?
  - Who has to pay for maintaining structure

Retirement of ccTLDs

Context Retirement (1) DRD WG report 2011

- No policy in place
- Limited number of cases

Context Retirement (2): Past cases

- .UM case
  - At request of ccTLD manager and government
  - No registrations at time of request and decision (2007)
  - Current status IANA Root Zone Database: Not assigned
  - Current status ISO 3166-1: Assigned

- .AN case
  - Netherlands Antilles ceased, restructuring of Kingdom of Netherlands (2010)
  - Part of delegation of .CW delegation process 2010
  - Closure of retirement process in 2015
  - Current status IANA Root Zone Database: retired
  - Current status ISO 3166-1: Transitionally reserved (assigned-> transitionally reserved)

Context Retirement (3)

- YU
  - Break-up of Yugoslavia
  - Part of delegation of .RS delegation process
  - Process initiated in 2007 (with the delegation of .rs) and completed in 2009
  - Current status IANA Root Zone Database: not included in IANA Root Zone Database
  - Current status ISO 3166-1: Transitionally reserved (assigned->transitionally reserved)

High Level Issues retirement: What are condition for Retirement

- Consistency of terminology
  - See summary of cases

- What triggers a retirement?
  - Change in ISO 3166-1?
    - Substantial Change of name in case of IDN ccTLD?
    - Change of status (from Assigned / to ?

- Who triggers retirement process?
  - IANA Function operator?
  - ICANN?
  - ccTLD manager? Government?
  - Significantly Interested parties? Is there an impact on SIP

High Level Issues retirement: other issues

- Consistency of terminology
  - See cases

- When/under what conditions may a ccTLD be retired?
  - No more domain names under management?
  - Agreement to retire by Significantly Interested Parties

- Conditionality to a delegation of subsequent ccTLD?
  - Retirement .YU -> part of delegation .RS
  - Retirement .AN -> part of delegation .CW

- Compliance with conditions?
  - Who does monitoring, if any?
  - Any consequences non-compliance?

PDP Matters

One or two PDPs: Assumptions

- Review mechanism on decisions delegation, revocation, transfer and retirement partly dependent on output work on retirement

- PDP is organised by using WGs (not a taskforce)

- Pool of volunteers limited

- Most volunteers will be active in both work streams

Method (1)
Single PDP, two working groups

- Charter two working groups
- Working groups to develop recommendations
- Working Group 1: Develop recommendations around retirement of ccTLDs

- Working group 2: Develop recommendations for a review mechanism for decisions on delegation, revocation, transfer and retirement of ccTLDs.

- Total package (output WG 1 and 2) subject to members vote

Method (2) two PDPs

- Launch 2 PDPs
- PDP 1 on retirement of ccTLDS
  - one working group
  - Launch first PDP on retirement
  - Launch second PDP when Final report is adopted by members
- PDP 2 on review mechanism decisions delegation, revocation, transfer and retirement of ccTLDs

Tentative Recommendation:
One (1) PDP

- More flexibility to align Review Mechanisms with Retirement recommended policy

- More flexibility in total timeline

- Run WG in Parallel, when needed and feasible, determined by community

- One members vote on total package

Task Force or WG (1)

- Task Force specified in Annex B,
- The Council **must**:
  - Identify Task Force members (including two Representatives of the Regional Organizations) and formally request the GAC participation);
  - Develop a charter or terms of reference that must specify:
    - The issues to be addressed by the Task Force;
    - The time line to be followed by the Task Force;
    - Any specific instructions for the Task Force t, including whether or not the task force should solicit the advice of outside advisors on the issue.

- Assessment No experience to date with method, limited participation, no flexibility

Other Structure (WG)

- Each Regional Organization must, within the time designated in the PDP Time Line, appoint a representative to solicit the Region's view on the issue.
  - If not, explicitly inform the Counci;l
- The Council **must** formally request the Chair of the GAC to offer opinion or advice: and
- The Council **may** take other steps to assist in the PDP
  - Allows for flexibility

Task force or WG?

- Issue(s) to be resolved and interests are cross-cutting
- Experience of community with working groups to address complex issues
- Conclusion/recommendation: Appoint a working group for review mechanism and retirement.
- Each WG own charter to be developed by community:
  - definition of scope and description of issues to be addressed
  - working method and schedule.

Next Steps

- Council decision: Community to Draft charter for WG 1 and 2
  - Refine Scope and description of issues
  - Working methods

- Community defines scope of issues and working methods

- Completion of Issue Report
  - Include draft charters
  - General Counsel opinion with respect to scope

- Initiation PDP

Timeline

- Council Decision 7 November: approval call for volunteers to draft charter WG 1 and 2
- Call for volunteers (14 November – 2 December)
- Council to appoint drafting teams 15 December
- Issue manger prepare strawman charter
- First meetings WG January 2017 (two weekly meetings)
- Submit charters to Issue Manager for inclusion in Issue report (late February 2017)
- Council initiates PDP (March 2017)

References

- The ccNSO Delegation and Redelegation working group Final report on retirement of ccTLDs, 07 march 2011 (http://ccnso.icann.org/workinggroups/drd-wg-retirement-report-07mar11-en.pdf)
- RFC 1591 (https://www.ietf.org/rfc/rfc1591.txt)
- ISO 3166 standard (http://www.iso.org/iso/country_codes)
- The ccNSO Framework of Interpretation working group Final Report, (http://ccnso.icann.org/workinggroups/foi-final-07oct14-en.pdf)
- CWG-Stewardship Final Report, Annex O: ccTLD Appeals Mechanism Background and supporting Findings Sections 1414- 1428.
- ccNSO members/ccTLD community email exchanges on survey Appeals Mechanism (2-3 March 2015)