

Stress Tests for Work Stream 2—Jurisdiction Recommendations

Introduction

‘Stress Testing’ is a simulation exercise where plausible, but not necessarily probable, hypothetical scenarios are used to gauge how certain events will affect an entity or system. In the financial industry, for example, ‘stress testing’ is routinely used to evaluate the strength of banks facing plausible scenarios of external crises.

As we did in Work Stream 1, CCWG-Accountability uses stress tests to assess how recommendations would improve ICANN’s accountability when faced with plausible scenarios that impose stress on the organization and community. An improvement in accountability can be seen when comparing the status quo with the structures and processes that would result from implementing the WS2 recommendations.

For the Jurisdiction track in Work Stream 2, we applied the following Stress Tests.

Stress Test #1: A registrar or registry declines to accept a domain registration because they believe they are subject to sanctions that apply to the ICANN corporation. (e.g., United States OFAC sanctions)	
Consequence(s): ICANN is failing to provide domain names to aspiring registrants from some countries.	
EXISTING ACCOUNTABILITY MEASURES	PROPOSED ACCOUNTABILITY MEASURES
<p>ICANN management is able to explain the extent to which sanctions affecting ICANN would also affect contract parties.</p> <p>The community has the ability to challenge ICANN inaction on this issue, via a Community IRP.</p> <p>If an Accountability & Transparency Review (ATRT) made relevant recommendations that were rejected by the board, a Community IRP could be brought to challenge that action.</p>	<p>One proposed measure is to have ICANN clarify to registrars that the mere existence of their Registration Accreditation Agreement (RAA) with ICANN does not require the registrar to comply with sanctions that apply to the ICANN corporation.</p> <p>This clarification, if credible and legally substantiated, should allow registrars to accept domain registration requests from citizens of any country.</p>
CONCLUSIONS:	
Existing measures may not be adequate.	Proposed measures are an improvement in helping ICANN be accountable to global domain registrants

<p>Stress Test #2: ICANN declines to enter into a Registration Accreditation Agreement (RAA) with an aspiring registrar from a country that is subject to sanctions that apply to the ICANN corporation. (e.g., United States OFAC sanctions)</p>	
<p>Consequence(s): ICANN is failing on its Core Value “promoting competition in the registration of domain names”, with respect to aspiring and qualified registrars from some countries.</p>	
<p>EXISTING ACCOUNTABILITY MEASURES</p>	<p>PROPOSED ACCOUNTABILITY MEASURES</p>
<p>For ICANN to enter an agreement with a party from a sanctioned country, it will need an OFAC license. Currently, “ICANN is under no obligation to seek such licenses...”</p> <p>The community has the ability to challenge ICANN inaction on this issue, via a Community IRP.</p> <p>If an Accountability & Transparency Review (ATRT) made relevant recommendations that were rejected by the board, a Community IRP could be brought to challenge that action.</p>	<p>One proposed measure is for ICANN to pursue one or more OFAC “general licenses” to cover transactions such as registry and registrar contracts, Privacy/Proxy Accreditation, ICANN funded travelers, etc. A general license would enable these transactions without the need for specific licenses.</p> <p>If a general license is not possible, another proposed measure is to amend ICANN stated policy to require ICANN to apply for and use best efforts to secure a specific OFAC license if the other party is otherwise qualified to be a registrar (and is not individually subject to sanctions).</p> <p>ICANN should be helpful and transparent about the licensing process, including ongoing communication with the potential registrar.</p>
<p>CONCLUSIONS:</p> <p>Existing measures may not be adequate.</p>	<p>Proposed measures are an improvement in helping ICANN meet its Core Values and be accountable to global domain registrants.</p>

<p>Stress Test #3: ICANN fails to provide services to a new gTLD registry applicant from a country that is subject to sanctions that apply to the ICANN corporation. (e.g., United States OFAC sanctions)</p>	
<p>Consequence(s): ICANN is failing on its Core Value “promoting competition in the registration of domain names”, with respect to aspiring and qualified registry operators from some countries.</p>	
<p>EXISTING ACCOUNTABILITY MEASURES</p>	<p>PROPOSED ACCOUNTABILITY MEASURES</p>
<p>For ICANN to enter an agreement with a party from a sanctioned country, it will need an OFAC license. Currently, “ICANN is under no obligation to seek such licenses...”</p> <p>The community has the ability to challenge ICANN inaction on this issue, via a Community IRP.</p> <p>If an Accountability & Transparency Review (ATRT) made relevant recommendations that were rejected by the board, a Community IRP could be brought to challenge that action.</p>	<p>One proposed measure is for ICANN to pursue OFAC licenses for all registry applicants otherwise qualified.</p> <p>ICANN should also be helpful and transparent with regard to the licensing process, including ongoing communication with the applicant.</p>
<p>CONCLUSIONS:</p> <p>Existing measures may not be adequate.</p>	<p>Proposed measures are an improvement in helping ICANN meet its Core Values and be accountable to global domain registrants</p>