

Operating standards Specific reviews: comments to date.

Comments 20 November 2017

General discussion on structure Operating Standards

1. Specific review or generally applicable?
2. What should be included in OS based on bylaws? What was added on as best practiced? Scope of OS should be included and what is guided by the bylaws vs proposals/best practices.
3. Structure of sections unclear. OS seem to follow life cycle model: drafting -> establishing review team -> operations of review team -> closure (board decision making etc.)

This structure does not work vis-a-vis some of the topics that must be addressed by OS (see point 1) and are relevant for full Review cycle, for example the non-disclosure framework.

4. Timing of reviews: Currently 4 reviews in parallel, i.e., at least are SUPPOSED to run in parallel.
 - I. First Competition, Consumer trust, Started 1 October 2015 call for volunteers; December 2017 call for input on new sections to its draft report: see webinar announcement. <https://www.icann.org/news/announcement-2017-12-07-en>
 - II. SSR 2: call for volunteers 30 June 2016 (initiation of SSR 2), December 2017, SSR 2 on hold until further notice.
 - III. ATRT3: 31 January 2017 call for volunteers (<https://www.icann.org/news/announcement-2017-01-31-en>) , Nomination process ongoing see: <https://community.icann.org/display/atrt/Applications+Received> (latest update 6 October 2017)
 - IV. RDS review: Start 28 October 2016, call for volunteers (<https://www.icann.org/news/announcement-2-2016-10-28-en>) ; ongoing

Future Reviews

ATRT 4: 5 years after previous was convened (-> 31 January 2022)

SSR 3: no less frequent than every 5 years from date previous was convened (-> 30 June 2021)

RDS 2: No less than every 5 years after fictional date 31 October 2016 (-> 31 October 2021)

Consumer Trust 2: One year after 2nd new gTLD Round has been in operation.

This implies, that according to Bylaws, next round of specific reviews will start between June 2021 – January 2022, noting that none of these 3 reviews has really started it work!

Comments 4 December 2017 meeting

Observations

1. *Introduction* & idea behind the specific reviews

2. *Planning phase*: difficulties for the groups to define the scope. Scope is needed, in order to be able to select the team members. Scope needs to be defined, before the calls for volunteers can be launched. Depending on the scope, the skillset and the knowledge can be defined.

12 months before the review takes place, there is a call for volunteers. The team works specifically on the scope.

3. *Review itself*. 7 SO/ACs may nominate up to 3 members. Full review team has up to 21 members. Smaller teams are acceptable as well.

ATRT3 only one candidate on behalf of the ccNSO volunteered. Other SO/AC chairs are working on the appointments.

SSR2 review team experience

- what to do when a team is suspended?
- How to select chairs and co-chairs,
- workplan
- removal of review team members (which raises questions)

Comments received

- selection process unclear
- decision on the number. max 3, but which are the 3 guaranteed seats to the ccNSO ? which 3 of our 4,5,6,7 endorsed candidates should definitely be on the team?
- diversity
- conflict of interest for team members is included in the current draft, but there is nothing mentioned about the CoI for the SO/AC chairs, or the liaisons appointed by the Board
- language in bylaws in the scope setting exercise, there should be a section on how the requirements are addressed
- state how a scope is approved (instead of how its rejected)
- what should be included in the NDA? should be disclosed earlier in the process
- skills
- archive of what sub-teams did
- did our review comments address the current issues of the SSR2 review team?

Detailed comments

- Scope of the Operating Standards (page 4)
- do they apply to the review teams? which ones? which reviews? if you link them to the icann bylaws? (page 5)
- drafting teams: it is not clear why this method was chosen. Why not a different method? Different method for drafting the scope, and selecting the review teams themselves

- page 7, final paragraph: the drafting team will draft a scope. Prior to adoption, the scope of the team shall be limited again (to the *mandatory* scope of the review?)
- call for volunteers. SO/AC shall nominate the members. ATRT3, SSR2, RDS review: call for volunteers sent out by ICANN Org. The ccNSO received a list of candidates to be nominated. Some people did not have a clear link with the ccNSO. To be managed by SO/AC. sometimes you reach good candidates only via ICANN org, and not via SO/ACs. how to improve it? current process: copy SSR2.
- page 10. readiness. Statement from employer that person X can indeed spend time on this review. in protection of members themselves, this statement should not be too weak.
- 2.8: double analysis of the skills and diversity requirements.
- needs to be clear whether all SO/ACs want to participate in a particular review. do they need their guaranteed slots? What to do with the non-filled slots?
- page 13. unclear. are SO/AC chairs empowered to override the suggested slate by the other SO/ACs? not clear from the language
- 3.4. Col / NDA. Structure: the Col is relevant to SO/AC chairs, probably. You would expect it would look at the whole process from specific reviews. the Col / Sol: is that relevant for the drafting team as well? mechanism how to change the templates, if you expect a Sol. ccNSO does not have a Sol: people contributing to the work of the ccNSO are expected to have a relation with a ccTLD Manager. expectations regarding Sol are different.
- Previous community work on Non-disclosure: see https://ccnso.icann.org/sites/default/files/filefield_42587/dssa-final-08nov13-en.pdf page 35 protocol for handling confidential information and template non-disclosure, page 51.
- Meetings must be conducted in "transparent manner". Describe what you will do to make meeting transparent. The way it is framed and phrased emphasizes question "Who assesses what is transparent?"
- page 19. Terms of Reference Specific Reviews. Link between the draft of the scope of a review, scope as defined in the bylaws, and then the Terms of Reference. How do the ToR relate to the scope drafting, and the bylaw drafting. Are they allowed to deviate from the scope of the Drafting Team?
- 3.20. decisionmaking procedures. Designations included (method GNSO policy WGs). Extensive discussion when CCWG was created. Was changed to the (C)CWG decision making procedure. Why deviate again? This is a result of the work of the CCWG. CCWG is more aligned with ccNSO way of working
- 3.21 item that overlooks the whole process. not limited to 1 specific phase.
- decision making around proposal itself. 3.22 changes to scope of the review. look at CCWG as a mechanism.
- minority dissent. relates to the decision making.
- current issues with SSR2. leadership of the team said "there is general agreement". But team members said: we never voted.
- evaluation of staff on qualifications of candidate. Some of the assessments hard to understand and do not make sense. Mixing of criteria: combining (gender) diversity and skillset?

- May chairs override decisions by SO/ACs? Diversity requirements should not stand in the way of excellence and experience.
- NDA. one team members refused to sign (SSR2). his rationale was: how can I sign an NDA while we have a review that is supposed to be transparent? if the meeting needs to be transparent, how can they balance the NDA with the transparency? See also DDSA WG proposal

Additional comments (post 4 December meeting)

Substantial:

- Would be good not to launch all the reviews simultaneously. Can this be worked into OS?
- Scope Drafting team: page 7 – “All SO/ACs that have rejected the initial scope MUST have at least one representative...” There is not deadline until which they MUST appoint. And what if they DO NOT appoint? Shall we consider the initial scope adopted then, perhaps?
- I do not think the Board should have the right to reject the scope adopted by SO/ACs. 1) Board appointed Liaison is on the drafting team, 2) we can add the Board to those who can object to the scope.
- Page 8, section 2.3. – “a community-appointed review team”. Technically, according to the Bylaws it is SOAC Chairs appointed review team.
- Page 9, 2nd paragraph: “... for candidate to indicate which of the sever SO/ACs from which they seek nomination” should be rephrased.
- Section 2.7., 1st paragraph “... to have a conflict of interest in any specific matter or issue likely to be in the review”
 - First, need guidance on what is a conflict of interest as different people see it differently
 - Why “likely to be in the review” – the scope is defined and approved by then.
- Not sure about a need for a non-binding analysis of diversity and skillset by staff.
- Page 13, last paragraph: “... to assure a diverse and competent review team” – sometimes “diverse” and “competent” are mutually exclusive.
- Page 15, section 3.6 – what is “sufficient number” of meetings?
- Section 3.8. “Review team members are expected to attend all meetings”. Not realistic.
- Section 3.9.1. “Remain neutral when serving as Chair or co-chair” – what does that mean? “Identify when speaking in individual capacity” is not clear either. They all are supposed to serve on the RT as individuals.
- Procedure of selection of co-chairs: maybe it would be better if SOAC chairs when they appoint members to a RT, they also propose co-chairs?
- Section 3.11, last paragraph: “It is encouraged that co-Chairs hail from different time zones (what is considered a different time zone? +2? +3?) and SO/ACs. I propose to add “and/or”
- 3.14 and 3.15 seem too similar, at least the beginning. Should start with removal and then talk about vacancy (if removed or resigned) and how to fill it. The filling of a vacancy should be carried out according to initial procedure. I.e., if it is one of the 3 seats of an SO/AC, then the SO/AC may consider appointing, without others objecting.
- 3.17. – the RT is responsible to manage its own budget. So far I haven’t seen documents on their budgets. And what does “manage budget” in the context of RTs mean anyway? Can they choose cheaper rooms but better food or less f2f meetings and more money for experts?

- Team's decision-making procedure. Previous experience shows that sometimes team members don't even understand there was a "vote" on something. Therefore, suggest to add a requirement how decision-making process has to be 1) conducted and 2) recorded. If there is a vote, it must be clear to everyone that it is a vote.
- What constitutes a "small minority"? What is "significant number"? Who can determine that?
- Page 27, the first paragraph after bullet-points
- Page 30, 2nd paragraph – all this review business takes so long, what if no one from the Scope Drafting Team is around anymore?
- Page 35, Implementation plan – why is it staff that decides on priority of implementation? Should be either the RT or SO/ACs.
- Page 35, if the Board rejects any recommendation, the next steps are not described.
- Page 36, why the Board are the only ones that cannot propose changes to OS?

Editorial:

- Page 5, Section 2.1., paragraph 1. Remove one of the "be set".
- Section 2.6 – quotes the Bylaws. Should be simplified.
- Page 21, last paragraph. The sentence "If the SO/AC Chairs cannot reach consensus on the appointment, then by consensus" is very confusing :)
- Page 25, last paragraph "shall five" -> "shall file"
- Page 26, 3rd paragraph "indpdnent" -> "independent", "sumits" -> "submits"
- Page 30, 3rd paragraph, "by a assessment" -> "by an assessment"
- Page 30, last paragraph, "Ream" -> "team"
- Page 36, 6th paragraph, "all pulic" -> "all public"