

## **Proposed Remedial Action Procedures**

These Remedial Action Procedures have been developed and agreed to by the Customer Standing Committee (CSC) and PTI in accordance with the provisions of the CSC Charter and the IANA Naming Function Agreement. The Remedial Action Procedures should be reviewed twelve (12) months after the first initiation of the procedures and every twelve (12) months after a subsequent invocation of the Procedures, with a review occurring no more frequently than once in a twelve (12) month period. These RAPs are developed to address a PTI Performance Issue, which is defined in the ICANN Bylaws as “any deficiency, problem or other issue that has adversely affected PTI's performance under the IANA Naming Function Contract.

### **I. Finding that a PTI Performance Issue Exists**

Where the CSC has decided to undertake a review to determine if a PTI Performance Issue exists, whether as the result of a complaint or for other reasons, the CSC will inform the PTI liaison of its intention and invite the President of PTI to comment within ten (10) business days, or such other time as may be agreed by the parties<sup>1</sup>, before finalizing the CSC's review.

### **II. Request For and Development of Corrective Action Plan**

- a) Where the CSC determines that a PTI Performance Issue exists, the CSC shall transmit a written Remedial Action Request Report to the PTI President, copying the President of ICANN's Global Domains Division through email or any other agreed delivery mechanism<sup>2</sup>. The Remedial Action Request Report shall include a description of the PTI Performance Issue, summary of a discussion including any relevant materials examined to reach this determination, and rationale for the CSC's initiation of the Remedial Action Procedures. The Remedial Action Request Report shall be delivered within ten (10) business days of its being finalized by the CSC.
- b) Upon receiving and acknowledging the Remedial Action Request Report, the PTI President shall within ten (10) business days initiate a meeting or conference call<sup>3</sup> with the CSC to discuss the Report, including:
  - i. Root cause analysis of the PTI Performance Issue (or summary of research conducted so far towards this analysis)
  - ii. Potential Corrective Action(s) based on research to date
  - iii. Potential timeline for implementing the Corrective Action(s)

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- iv. Identification of whether the issue set out in the Remedial Action Request Report requires a longer time period within which to develop a Corrective Action Plan than otherwise contemplated in these procedures
- v. Where ICANN and PTI have previously agreed to a mitigation plan for the same PTI Performance Issue (or set of issues), it shall be duly considered in the development of the Corrective Action Plan.

The PTI President shall notify the PTI Board of the receipt of the Remedial Action Process Request Report and keep the PTI Board advised of the status of this corrective action process throughout. The PTI President shall also notify ICANN, through the President of ICANN's Global Domains Division, of the receipt of the Remedial Action Process Request Report.

- c) In drafting the Corrective Action Plan, PTI may consult and collaborate with both ICANN and the CSC, as necessary, to ensure the Plan appropriately reflects the issues, concerns, and expectations of the CSC. The CSC may be requested by PTI (or ICANN) to provide comment on a draft. If comment is requested, the time necessary for CSC to provide comment shall be reflected accordingly in the timeline for development and implementation of the Corrective Action Plan.
- d) Within ten (10) business days of the meeting with the CSC, the PTI President shall deliver a PTI Corrective Action Plan to the CSC that includes proposed corrective measures along with specific milestones for achieving the implementation of these corrective measures. The PTI Corrective Action Plan should also include proposed frequency of PTI updates to the CSC regarding progress in meeting these milestones.
- e) The CSC shall review and either approve or reject the Plan within ten (10) business days of receipt. The PTI President shall be available to provide any clarification needed by the CSC during this step of the process. If the CSC rejects the Plan, it shall inform the PTI President of its reasons and request that the PTI President revise the Plan within 10 business days.
- f) Once the PTI Corrective Action Plan is approved by the CSC, PTI will move expeditiously to implement the approved Corrective Action Plan and provide regular reports to the CSC on its progress in meeting the requirements of the plan.

### **III. First Escalation – to PTI Board**

- a) Where the President of PTI fails to do one or more of the following:
  - i. call a meeting or conference call, as required under Section II above

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- ii. provide a PTI Corrective Action Plan that is satisfactory to the CSC as required under Section II above
- iii. implement the corrective action agreed upon in the PTI Corrective Action Plan within the timeframe agreed upon
- iv. provide an update on its progress in meeting the milestones set out in the Corrective Action Plan within the timeframe for reporting agreed to in that plan

the CSC may escalate the matter to the PTI Board with a written notice of escalation to the PTI Board Chair, and a copy to the PTI President and the President of ICANN's Global Domains Division. This notice to the PTI Board Chair shall set out the failure giving rise to the escalation.

- b) Upon receipt of the notice of escalation, the PTI Board Chair shall notify the other PTI Board members, and within ten (10) business days of receipt, convene a meeting with the CSC to review the situation and identify potential paths to address the concerns with PTI's performance against or adherence to these Remedial Action Procedures. The PTI President shall also attend the meeting.
- c) Within ten (10) business days of the meeting with the CSC, the PTI Board shall consider and affirm the PTI Corrective Action Plan, including any necessary modifications. The PTI Board shall also specify a proposed frequency that the PTI Board and CSC receive updates on PTI's progress in meeting the milestones in the PTI Corrective Action Plan.
- d) The CSC will review and either approve or reject the affirmed PTI Corrective Action Plan within ten (10) business days of receipt. The PTI Board and PTI management shall be available to provide any clarification needed by the CSC during this step of the process. If the CSC rejects the affirmed PTI Corrective Action Plan, it shall inform the PTI Board of its reasons and request that the PTI Board affirm a further revised PTI Corrective Action Plan within 10 business days.
- e) Once the affirmed PTI Corrective Action Plan is approved by the CSC, the PTI Board shall direct PTI to work to implement the affirmed PTI Corrective Action Plan and provide regular reports as specified in item c above.

#### **IV. Second Escalation – to ICANN CEO**

- a) Where PTI fails to correct the PTI Performance Issue as evidenced by one or both of the following:
  - i. The PTI Board's failure to call a meeting to discuss the Remedial Action Request within the time frame required in Section III above
  - ii. PTI's failure to perform against the outcomes and agreements as anticipated by Section III above

then the CSC may escalate the matter to the ICANN CEO. The CSC shall send a notice to the ICANN CEO of the decision to escalate, including the grounds for such escalation.

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The ICANN CEO shall acknowledge the receipt of the escalation request and shall initiate a meeting with the CSC within ten (10) business to discuss the issue. The PTI President will also notify the ICANN Board and PTI Board and keep them advised of the status of the escalation process throughout.

b) ICANN shall draft a proposed ICANN Corrective Action Plan to address the PTI Performance Issue. In preparing the draft, ICANN may consult and collaborate with both PTI and the CSC, as necessary, during the development of the Plan to ensure the Plan appropriately reflects the issues, concerns, and expectations of the CSC. In addition, the CSC may be requested by ICANN to provide comment on a draft. If comment is requested, the time necessary for CSC to provide comment shall be reflected in the timeline for development and implementation of the ICANN Corrective Action Plan.

c) Within ten (10) business days of the meeting with the CSC, the ICANN CEO will deliver an ICANN Corrective Action Plan to the CSC. The Plan shall also include a proposed frequency of ICANN updates to the CSC regarding progress in meeting these milestones.

d) The CSC will review and either approve or reject the ICANN Corrective Action Plan within ten (10) business days of receipt. ICANN shall be available to provide any clarification needed by the CSC during this step of the process. If the CSC rejects the ICANN Corrective Action Plan, it shall inform the ICANN CEO of its reasons and request that the ICANN CEO revise the ICANN Corrective Action Plan within 10 business days.

e) Once the ICANN Corrective Action Plan is approved by the CSC, ICANN will move expeditiously to work with PTI to implement the approved ICANN Corrective Action Plan and provide regular reports to the CSC on its progress in meeting the requirements of the plan.

## **V. Third Escalation – to ICANN Board**

- a) Where the CEO of ICANN fails to do one or more of the following:
  - i. call a meeting, as required in Section IV above
  - ii. provide a ICANN Corrective Action Plan that is satisfactory to the CSC within ten (10) days of the meeting or conference call with the CSC, or within such other time as may be agreed to by the parties
  - iii. implement the corrective action agreed upon in the ICANN Corrective Action Plan, within the timeframe agreed upon
  - iv. provide an update on its progress in meeting the milestones set out in the ICANN Corrective Action Plan within the timeframe for reporting agreed to in that plan

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the CSC may escalate the matter to the ICANN Board by sending a notice of escalation to the ICANN Board Chair with a copy to the PTI Board Chair and ICANN's CEO. The written notice of escalation to the ICANN Board Chair shall set out the failure giving rise to the escalation.

- b) Upon receipt of the notice of escalation, the ICANN Board Chair shall notify the other ICANN Board members, and within ten (10) business days of receipt, convene a meeting with the CSC to review the situation and identify potential paths to address the concerns with ICANN and PTI's performance against or adherence to these Remedial Action Procedures. The ICANN CEO and PTI President shall also attend the meeting.
- c) Within ten (10) business days of the meeting with the CSC, the ICANN Board shall consider and affirm the ICANN Corrective Action Plan, including any necessary modifications. The ICANN Board shall also specify a proposed frequency that the ICANN Board and CSC receive updates on ICANN's progress in meeting the milestones in the ICANN Corrective Action Plan.
- d) The CSC will review and either approve or reject the affirmed ICANN Corrective Action Plan within ten (10) business days of receipt. The ICANN Board and ICANN management shall be available to provide any clarification needed by the CSC during this step of the process. If the CSC rejects the Plan, it shall inform the ICANN Board of its reasons and request that the ICANN Board affirm a further revised ICANN Corrective Action Plan within 10 business days.
- e) Once the affirmed ICANN Corrective Action Plan is approved by the CSC, the ICANN Board shall direct ICANN to work to implement the affirmed ICANN Corrective Action Plan and provide regular reports as specified in item c above.
- f) Where the performance issue remains unresolved following the escalation to the ICANN Board, the CSC may raise the issue with the ccNSO and GNSO, which may then decide to take further action, as is provided in the ICANN Bylaws, including the use of a Special IFR.

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