Proposal: A Review of the gTLD Policy Development Process (PDP) based on case-studies

If you take an informal survey of people in the ICANN ecosystem, and ask about the health of the gTLD PDP, you will receive answers covering the range from "it is working exactly as it was designed to and should" to "it is VERY broken".

My personal position is that its ability to address policy development varies based on the type of problem it is addressing.

Issues that may be difficult and important, but there are few ICANN participants who have a large financial stake in the outcome.

The PDP works very well for this class of problem. Dedicated people who have an interest in the subject, and a vested interest in "fixing" the problem or making a process run better get together, investigate and debate the issues, and try to do the best thing for the Internet.

Issues where one group of stakeholders have either significant financial interest in the outcome or a vested interest in seeing either no change or very specific change. Other "interested parties" have no real personal or corporate stake.

Those with a strong financial or other reason for wanting a specific outcome invest a lot of time (ie multiple Working Group members attending regularly) in this type of PDP. Those without personal or corporate success at stake have a hard time devoting sufficient resources to the PDP. The result is either the first group gets exactly what they want, or the end results are a watered down least-common denominator, not really worth the amount of effort that went into the process.

Issues where a lot is at stake, financial, some other form of status or principle - on both sides.

This type of PDP is likely to result in either a deadlock, or a least-common denominator result that will not be acceptable to the larger Internet community or the Board or the GAC.

There are many examples of the first type of PDP, with several Inter-Registrar Transfer Protocol (IRTP) PDPs being good examples.

The best example of the second class of PDP that I am familiar with is one that I ran. The PDP on Post Expiration Domain Name Recovery – a PDP attempting to establish rights for registrants ensuring that they can reasonably renew expiring or expired domain names, rights that originally existed but were eroded by changes in registrar practices. This was a long painful process that

achieved some, but really minimal, registrant rights – far below those that most registrants expected or deserved (based on their historical rights).

An example of the third type is the PDP on Vertical Integration, which stalemated and ended up with the Board deciding on the outcome. The current PDP on protecting Inter-Governmental and International Non-Governmental Organization names is, in my opinion, likely to have one of the results predicted above.

Proposal

I propose that we contract with an external agency to do case studies on a number of PDPs and report on whether the process works well and meets ICANN's needs, or what its weaknesses and failure modes are. To the extent possible, alternatives could be recommended, but I think that this might be too much to achieve given the limited time-line and the fact that an investigative body might not be the best organization to recommend alternatives. Including this as a target also, to some extent, presupposes the conclusions of the investigation and I think that ICANN would be better served with doing this, if needed, in a later stage.

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