ATRT2 Templates

A. Analysis of previous review teams recommendations

* Recommendation

ATRT1 made 3 Recommendations specific to the Public Comment process. They are:

“15. The Board should, as soon as possible but no later than June 2011, direct the adoption of and specify a timeline for the implementation of public notice and comment processes that are distinct with respect to purpose (e.g. Notice of Inquiry, Notice of Policy Making) and prioritized. Prioritization and stratification should be established based on coordinated community input and consultation with staff.

16. Public notice and comment processes should provide for both a distinct “Comment” cycle and a “Reply Comment” cycle that allows community respondents to address and rebut arguments raised in opposing parties’ comments.

17. As part of implementing recommendations 15 and 16, timelines for public notice and comment should be reviewed and adjusted to provide adequate opportunity for meaningful and timely comment. Comment and Reply Comment periods should be of a fixed duration.”

* Summary of ICANN input on implementation including effectiveness

ICANN Staff provided ATRT2 with inputs concerning the implementation of these 3 Recommendations. Staff indicated that a Comment and Reply Comment process had been introduced for use by the Community [implementation as of January 1, 2012]. Staff indicated that timelines for Comments and Reply Comments were reviewed and that a fixed 21 day period for Comments and 21 days for Reply Comments was established. Staff stated “[t]here has been some concern expressed over the 21 day period for the public comment as well as the reply period. Some people feel that may be too short, others feel there hasn’t been enough participation yet as well as in the reply period aspect of it.” Interview of Brian Peck, March 15, 2013. Staff also indicated that the track record shows that stakeholders had not used the Reply Comment as intended. Staff noted that Commenters would use the Reply Comment Cycle to file “initial” Comments. Staff also noted that Commenters rarely submitted Reply Comments that provided rationales and argumentation to rebut other Comments that had been submitted on a given issue. [Need to insert Staff input regarding prioritization and stratification.]

* Summary of community input on implementation, including effectiveness

Comments from the Community indicate a range of views (from “easy” to “not easy” with respect to the ease of filing Comments.) Commenters noted that the volume of consultations calling for Comments created a potential barrier to participation. Commenters suggested that better planning with respect to the number of consultations and their complexity might improve the use of the Comment process. [cite Commenters]

* Summary of other relevant research

ICANN Staff presented to ATRT2 approaches and technical tools that are being developed by ICANN to provide additional tools to encourage more active dialogue and debate between commenters. Staff also noted that work is being done to enhance the ability of stakeholders to link from Board resolutions back to comments that were provided in the relevant process underlying the resolution. [Insert summary of other relevant research, if conducted.]

* ATRT2 analysis of recommendation implementation

The Comment and Reply Comment tools have been put in place and have been used by the Community. Stratification and prioritization elements have been added to the public input system. The recommendations have been implemented.

* ATRT2 assessment of recommendation implementation (e.g., complete, incomplete, effectively addressed issue or not, etc.)

While the recommendations have been implemented, it appears that the desired effects have not been realized with respect to the Community’s use of the Reply Comment. Moreover, persistent and long-standing feedback from the Community concerning the volume of public consultations poses challenges to effective use of the public input processes. Organizations in particular observe that the 21 day periods are too short to prepare and approve Comments through internal processes.

Based on this assessment, Staff should reassess the management and prioritization of consultations and adopt new approaches to improve the ease of use of the public comment process. Staff should consider whether longer time periods and or education of the Community with respect to the proper use of Reply comments would improve the situation. ATRT2 encourages Staff to adopt addition tools to engender open and fulsome debate in the Comment and public input processes. Staff should consider the “quality” of comments, debate and inputs when implementing new tools for use by the Community. ICANN should develop metrics to periodically measure the effectiveness of the Comment process.

B. Proposed new recommendations

* Hypothesis of problem
* Background research undertaken
  + Summary of ICANN input
  + Summary of community input via the public comment process and face to face meetings
  + Summary of other relevant research
* Relevant ICANN bylaws
* Relevant ICANN published policies
* Relevant ICANN published procedures
* ATRT2 analysis
* Draft recommendation
* Public Comment on Draft Recommendations
* Final recommendation