ccNSO Council Statement:
Long-Term Options to Adjust the Timeline of Reviews

Date: 31 July 2018

The ccNSO Council welcomes the opportunity to provide feedback on the Long-Term Options paper to adjust the timeline of reviews[1] prepared by ICANN staff.

The comments below have been considered and endorsed by the ccNSO Council in accordance with the ccNSO internal procedures, though, they do not necessarily represent the consensus view of ccNSO members or other ccTLDs, some of whom may decide to submit their own comments (see Guideline: ccNSO Statements, https://ccnso.icann.org/sites/default/files/filefield_47783/guidelines-statements-30mar16-en.pdf).

This submission builds on the work of the ccNSO Guidelines Review Committee.
(see ccNSO Council resolution 141-05: https://ccnso.icann.org/en/about/council/decisions-resolutions/2018).

1. Operating Standards

The ccNSO Council would like to reiterate its view that building the necessary trust in the processes is a fundamental prerequisite for the community at large to work together on the Specific, Organisational and other reviews.

In this context we raise our concern about the phasing/scheduling of the Specific reviews. We understand that the discussion is based on considerations about the efficiency and effectiveness of the Reviews, and the duration of some of them. The ccNSO Council wishes to highlight that the CCWG Accountability WS 1 Final Report[2] suggests that to support the common goal of improving the efficiency and effectiveness of reviews, ICANN will publish operational standards to be used as guidance by the community, ICANN staff, and the Board in conducting future reviews. Afterwards, this recommendation was reflected in the ICANN Bylaws of 1st October 2016.

The ccNSO Council notes that the Public Comment which aims to gather feedback on long-term scenarios to provide more reasonable scheduling options across ICANN reviews (Specific and Organisational), does not include the Operating Standards as a mean to meet ICANN's accountability and transparency obligations in a more practical and sustainable manner.

The Operating Standards are expected to reflect levels of detail that are generally not appropriate for governance documents, and should not require a change to the Bylaws.

Therefore, we strongly suggest Operating Standards be developed to ensure a stable basis for the Review process as a matter of urgency.

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[1] https://www.icann.org/public-comments/reviews-long-term-timeline-2018-05-14-en
[2] https://community.icann.org/pages/viewpage.action?pageId=58723827&preview=/58723827/58726375/Annex%2009%20-%20FINAL-Revised.pdf

2. Need for Reviews

The report proposes ways to deal with issues caused by some of the currently mandated reviews. However, the ccNSO Council notes that proposed measures address only the consequences of the present setup. Without questioning the necessity of the reviews and without a deeper analysis of the mechanisms used to achieve the goals, the ccNSO Council believes that it is impossible to find solutions to tackle the core issue.

It is essential to evaluate the reasons for each review and, thus, consider whether the reviews themselves in their current form are still valid. This could be included in the terms of reference for each review.

3. Bylaw Change

The paper rightfully points out that the Bylaws do not provide any flexibility. In order to change timelines, scope or other aspects of reviews, there is a need to change the Bylaws. With the new mechanisms of the Empowered Community, such changes would trigger Approval and Rejection actions. Consequently, any change needs to be widely supported by the SO/ACs.

4. Cross Community Working Group

To address the aforementioned issues, the ccNSO Council believes that there is a need to look at the framework and objectives for the ICANN review mechanisms. One approach could be to establish a cross-community working group tasked with reviewing the effectiveness of the review process and covering at least:

- The review of the current background and goals of Specific, Organisational, and other reviews,
- The evaluation of the need for each review in its current form, scope, and frequency, based on output from the reviews.
- The examination of other possible mechanisms to ensure that the Empowered Community is well informed to make decisions and, when necessary, can exercise its powers in an efficient and effective way.

This working group should be informed by individual reviews about the validity and value of each review process.

ccNSO Council Position Summary

To sum up, the ccNSO Council believes that ICANN should develop Operating Standards for the reviews. Furthermore, the ccNSO Council is of the opinion that it is essential to evaluate the reasons for each particular review, and whether that review, in its current form, is still valid. As a matter of fact, reviews should not be conducted just for the sake of conducting reviews.
The ccNSO Council recognizes that adjustments to the current review process will necessitate changes to the ICANN Bylaws, thus triggering Empowered Community review mechanisms. Therefore, the Council recommends the establishment of a cross-community working group to assess the framework and objectives of the current ICANN review mechanisms and eventually, develop ICANN Bylaw changes.