Registries Stakeholder Group Statement

Issue: **Updated Operating Standards for Specific Reviews**

Date statement submitted: **19 February 2019**

Reference URL: https://www.icann.org/public-comments/reviews-standards-2018-12-17-en

Background[1]

The Operating Standards aim to ensure that ICANN's Specific Reviews are conducted in a transparent, consistent, efficient, and predictable manner, while supporting the community's work to derive the expected benefit and value from review processes. The Operating Standards are required as per ICANN Bylaws Section 4.6 (a), and must adhere to the guidelines set in Section 4.6. (a): https://www.icann.org/resources/pages/governance/bylaws-en/#article4.6 .
There are four Specific Reviews as per ICANN Bylaws Article 4, Section 4.6: Accountability and Transparency Review - 4.6 (b); Security, Stability, and Resiliency Review - 4.6 (c); Competition, Consumer Trust and Consumer Choice Review - 4.6 (d); Registration Directory Services Review - 4.6 (e).

Earlier RySG Comments on the issue:
- RySG comment on 'Operating Standards for ICANN's Specific Reviews' (2 Feb 2018) https://docs.wixstatic.com/ugd/ec8e4c_63b63bae1748463180e7519c5c1b50a0.pdf

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Registries Stakeholder Group (RySG) comment:

The Registries Stakeholder Group (RySG) appreciates the opportunity to provide comments on the updated draft "Operating Standards for Specific Reviews" ("Operating Standards"). Specific Reviews are a critical part of ensuring that ICANN is and remains a transparent and accountable organization. In the post-IANA Transition era, Specific Reviews have grown in their significance, and thus ensuring that each Review is conducted in a transparent, consistent, efficient, and predictable manner, as the Operating Standards seek to do, is critical to ICANN's ongoing self-governance.

With that context in mind, the RySG would like to begin by expressing its appreciation for the work ICANN Organization has put into compiling the Updated Operating Standards document. The RySG is pleased that some of its suggestions on the October 2017 draft Operating Standards have been incorporated in the updated draft Operating Standards, including its recommendations with regard to setting the scope of a review and the role of the proposed 'Implementation Shepherds' once the implementation of recommendations is underway.

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[1] *Background: intended to give a brief context for the comment and to highlight what is most relevant for RO's in the subject document – it is not a summary of the subject document.*

While the RySG believes that the updated Operating Standards are an improvement over the draft Standards from 2017, there are a few areas where the RySG continues to have concerns. We offer the following feedback to address those.

Review Team Budget
- The RySG is still concerned that in the course of conducting a Specific Review, a given Review Team may mismanage its allocated budget and deplete the available funds before its work is complete. The updated draft Operating Standards recommend that each Review Team should manage its own budget and must submit a request to the ICANN Board if additional funds are required (section 3.8). **The RySG reiterates its prior suggestion that in order to more proactively mitigate against this risk, either the role of the Board Liaison should be formalized to include providing the Review Team with guidance on managing its budget, or that a member of the ICANN Organization should be appointed to help each Review Team manage its budget more effectively.**

SO/AC process to raise concerns
- During the course of conducting a Specific Review, it is possible for the work to go awry for a variety of reasons, necessitating an intervention by members of the ICANN community. The updated Operating Standards, unfortunately, neglect to address what should happen if one or more SO/AC raises concerns about a particular Review Team or its work. As we saw in the events that transpired around the SSR2 Review during ICANN 60, it is clear that some additional guidelines, agreed upon by the community, are necessary. **The RySG advises formalizing a process for SO/AC Chairs to raise concerns on behalf of their SO/ACs to the other Chairs to determine if there is a problem that can be addressed efficiently, or whether the concern is such that it needs to be brought to the attention of the community or the Board.** As an example, while a Review is underway, there could be a standing agenda item for each SO/AC Chair meeting/call where Chairs could raise or discuss concerns that would serve as a basis for Chairs to report back to their SOs/ACs for input.

   The Board should similarly raise any concerns that it may have about the conduct of a Specific Review with the SO/AC Chairs through a process delineated in the Operating Standards, which should also make clear that the Board has no authority to unilaterally intervene in the proceedings of a Specific Review, much less suspend or dissolve it, as this would be contrary to the Review's independence.

Safety clause in the event of failure
- **The RySG believes that finalized Operating Standards should include a clear designation of authority (and the limitations thereof) in the event that a Review Team fails to function properly or ceases to perform its work**. This designation should be firmly grounded in the ICANN Bylaws and the powers and limitations granted to various stakeholders within the ICANN community therein.

Overall, the RySG is pleased to note that the Updated Standards include additional practical details that will help guide the work of future specific Review Teams. We believe that with some additional improvements, as outlined above, the Operating Standards will be a valuable tool for RT members and will help support the success of specific reviews.