

Separation Review¹

Short Description

A fundamental bylaw will be created to define a Separation Review that can be triggered by the ICANN community if needed. This would only occur when other escalation mechanisms and methods have been exhausted. [A cross community of the SOAC would be formed, The IFR would be designated] to review the issues and make recommendations. The recommendations would need to be approved by the ICANN Board and would be subject to all escalations and appeals mechanisms.

There would be no prescribed action for the Separation Review. It would be empowered to make a recommendation ranging from “no action required” to the initiation of an RFP and the recommendation a new IANA Function Operator.

Full Description

The Separation Review will be defined in a Fundamental ICANN ByLaw .

Triggers for the Separation Review

The Separation Review could be triggered (CWG needs to decide on which or whether multiple methods are possible):

- on the recommendation of the IANA Review Function as approved by [Board, SOAC, members council], or in the case of Board rejection via escalation procedure.
- on supermajority recommendation of both GNSO & ccNSO
- on recommendation of 1 SO and 2 ACs

Mode of Operation

The Separation Review would be either a (decision to be made by CWG)

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1. A process initiated in the IFR

¹ File is open for comments and suggested edits at:

<https://docs.google.com/document/d/1WvBqtgXJ7rNrbN-5Tjf5-gi80aZ2oRYDtF_JLrETRqg/edit?usp=sharing>

2. Function as a Cross Community Working Group and would follow established guidelines for multistakeholder cross community working groups. In this case the participants would be either (decision to be made by CWG) :
 - a. Each of the AC/SO would appoint 5 people to the Separation Review.
 - b. Alternatively: Use the ICG community inclusion and proportions to include the broader community as this will affect the entire community.

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Range of possible Separation Review outcomes

- No action needed
- Introduce operational sanctions relevant to the identified deficiency
- Create an RFP with a possible outcome of selecting a new entity to perform the IANA naming functions
- Initiate partial separations, i.e. initiate negotiations with new operational partners
- Initiate full separation of the IANA affiliate

CCWG Accountability dependencies

- Fundamental ByLaws compelling the ICANN to comply with the outcome of a process to initiate separation
- Accountability mechanisms designed to address possible IANA deficiencies (e.g. spilling the ICANN board) as a prerequisite to initiating separation process

Suggested text for ICANN Bylaws

TBD

Requirements Template.

| Design Team X | Separation Mechanism |
|--|---|
| Draft Transition Proposal Reference | III.A.ii (?) and section VI (?) |
| Summary Description | <p>One of the basic components of an internal or affiliate model is the possibility of an separation process to move the IANA Naming Functions outside of ICANN to a successor operator. This process would be carried out in the event of serious performance deficiencies that were not addressed through internal remediation processes, nor through accountability mechanisms defined by the Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability).</p> <p>This seems to be a gap in our current work .</p> |
| Detailed description | <p>Propose a mechanism including:</p> <ul style="list-style-type: none"> ● What triggers the Separation Mechanism> <ul style="list-style-type: none"> ○ What escalation processes result in the trigger? ○ Who participates in the trigger? ○ Are there several possible triggers? ● How is the Separation mechanism work organized? ● Who participates in the Separation mechanism? ● How is community involved? <ul style="list-style-type: none"> ○ Are comment periods enough? ● How is the selection of a provider determined? ● What are the potential outcomes of using the separation mechanism? <ul style="list-style-type: none"> ○ E.g. Could the separation mechanism initiate a spin-out of the affiliate. ● Which CCWG mechanisms/powers would precede use of the separation mechanism? |
| Proposed Membership | <ul style="list-style-type: none"> ● Good to include people who have done (created, administered, and/or participated &c, in) RFPs |

DT-X Separation Review

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| | and the creation or execution of separation mechanisms before. <ul style="list-style-type: none">• Graduates of DT-{C, F, L, M, N} |
| Proposed by / Lead | Avri Doria, Matt Shears / |
| Status | Step 0 |
| Determination by CWG Chairs | work to be done in ... |