

# ICANN Reviews – Terms of Reference

## Introduction

Good practices suggest that the Terms of Reference (ToR) should demonstrate how the objective of the review will be accomplished within the available time and with specified resources. Terms of Reference in general must provide a clear articulation of work to be done and a basis for how the success of the project will be measured.

This template provides guidance and examples of the issues that review teams should address in their ToR and also provides some examples and best practices (where applicable) to facilitate completion. Review teams may adjust this template to their individual needs, addressing all relevant issues appropriately.

| Review Name:                            | Registration Directory Service (RDS) WHOIS2 Review   |
|---|--|
| <b>Section I: Review Identification</b> |  |
| Board Initiation                        | <a href="#">Resolution 2017.02.03.10</a>   |
| ToR Due Date                            | Due date for ToR, as per Board Resolution: 15 May, 2017  |
| Announcement of Review Team:            | <a href="#">2 June, 2017</a>   |
| Name(s) of RT Leadership:               | Alan Greenberg, Interim Chair<br>Cathrin Bauer-Bulst, Interim Vice Chair<br>Susan Kawaguchi, Interim Vice Chair  |
| Name(s) of Board Appointed Member(s):   | Chris Disspain   |
| Review Workspace URL:                   | <a href="https://community.icann.org/display/WHO/RDS-WHOIS2+Review">https://community.icann.org/display/WHO/RDS-WHOIS2+Review</a>  |
| Review Mailing List:                    | <a href="http://mm.icann.org/pipermail/rds-whois2-rt/">http://mm.icann.org/pipermail/rds-whois2-rt/</a>  |
| Important Background Links:             | Bylaws Section: <a href="#">Registration Directory Service Review</a><br>RT Selection: <a href="https://community.icann.org/display/WHO/Selection+Process">https://community.icann.org/display/WHO/Selection+Process</a><br>RT Announcement: <a href="https://www.icann.org/news/announcement-2017-06-02-en">https://www.icann.org/news/announcement-2017-06-02-en</a> |

## Section II: Mission, Purpose, and Deliverables

### Mission & Scope:

#### Background

At its meeting on 03 February 2017, the ICANN Board initiated the Registration Directory Service (RDS) WHOIS2 Review to “assess the effectiveness of the then current gTLD registry directory service and whether its implementation meets the legitimate needs of law enforcement, promoting consumer trust and safeguarding registrant data.”

#### Mission and Scope

ICANN’s mission relative to Registration Directory Services (RDS, formerly known as WHOIS) is the first article of its Bylaws:

*“Section 1.1. MISSION*

*(a) The mission of the Internet Corporation for Assigned Names and Numbers (“ICANN”) is to ensure the stable and secure operation of the Internet’s unique identifier systems as described in this Section 1.1(a) (the “Mission”). Specifically, ICANN:*

*(i) Coordinates the allocation and assignment of names in the root zone of the Domain Name System (“DNS”) and coordinates the development and implementation of policies concerning the registration of second-level domain names in generic top-level domains (“gTLDs”). In this role, ICANN’s scope is to coordinate the development and implementation of policies:*

- *For which uniform or coordinated resolution is reasonably necessary to facilitate the openness, interoperability, resilience, security and/or stability of the DNS including, with respect to gTLD registrars and registries, policies in the areas described in Annex G-1 and Annex G-2; and*
- *That are developed through a bottom-up consensus-based multistakeholder process and designed to ensure the stable and secure operation of the Internet’s unique names systems.*

*The issues, policies, procedures, and principles addressed in Annex G-1 and Annex G-2 with respect to gTLD registrars and registries shall be deemed to be within ICANN’s Mission.”*

Under the [Bylaws](#), Annex G-1,

*“The topics, issues, policies, procedures and principles referenced in Section 1.1(a)(i) with respect to gTLD registrars are:*

- *issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, security and/or stability of the Internet, registrar services, registry services, or the DNS;*
- *functional and performance specifications for the provision of registrar services;*

- registrar policies reasonably necessary to implement Consensus Policies relating to a gTLD registry;
- resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names, but including where such policies take into account use of the domain names); or
- restrictions on cross-ownership of registry operators and registrars or resellers and regulations and restrictions with respect to registrar and registry operations and the use of registry and registrar data in the event that a registry operator and a registrar or reseller are affiliated.

Examples of the above include, without limitation:

- principles for allocation of registered names in a TLD (e.g., first-come/first-served, timely renewal, holding period after expiration);
- prohibitions on warehousing of or speculation in domain names by registries or registrars;
- reservation of registered names in a TLD that may not be registered initially or that may not be renewed due to reasons reasonably related to (i) avoidance of confusion among or misleading of users, (ii) intellectual property, or (iii) the technical management of the DNS or the Internet (e.g., establishment of reservations of names from registration);
- maintenance of and access to accurate and up-to-date information concerning registered names and name servers;
- procedures to avoid disruptions of domain name registrations due to suspension or termination of operations by a registry operator or a registrar, including procedures for allocation of responsibility among continuing registrars of the registered names sponsored in a TLD by a registrar losing accreditation; and
- the transfer of registration data upon a change in registrar sponsoring one or more registered names.”

Under the [Bylaws](#), Annex G-2,

“The topics, issues, policies, procedures and principles referenced in Section 1.1(a)(i) with respect to gTLD registries are:

- issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, security and/or stability of the Internet or DNS;
- functional and performance specifications for the provision of registry services;
- security and stability of the registry database for a TLD;
- registrar policies reasonably necessary to implement Consensus Policies relating to registry operations or registrars;
- resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names); or
- restrictions on cross-ownership of registry operators and registrars or registrar resellers and regulations and restrictions with respect to registry operations and the use of registry and

registrar data in the event that a registry operator and a registrar or registrar reseller are affiliated.

Examples of the above include, without limitation:

- principles for allocation of registered names in a TLD (e.g., first-come/first-served, timely renewal, holding period after expiration);
- prohibitions on warehousing of or speculation in domain names by registries or registrars;
- reservation of registered names in the TLD that may not be registered initially or that may not be renewed due to reasons reasonably related to (i) avoidance of confusion among or misleading of users, (ii) intellectual property, or (iii) the technical management of the DNS or the Internet (e.g., establishment of reservations of names from registration);
- maintenance of and access to accurate and up-to-date information concerning domain name registrations; and
- procedures to avoid disruptions of domain name registrations due to suspension or termination of operations by a registry operator or a registrar, including procedures for allocation of responsibility for serving registered domain names in a TLD affected by such a suspension or termination.”

This Review Team is tasked, as per the [Bylaws](#), Section 4.6(e):

*“(i) Subject to applicable laws, ICANN shall use commercially reasonable efforts to enforce its policies relating to registration directory services and shall work with Supporting Organizations and Advisory Committees to explore structural changes to improve accuracy and access to generic top-level domain registration data, as well as consider safeguards for protecting such data.*

*“(ii) The Board shall cause a periodic review to assess the effectiveness of the then current gTLD registry directory service and whether its implementation meets the legitimate needs of law enforcement, promoting consumer trust and safeguarding registrant data (“Directory Service Review”).*

*“(iii) The review team for the Directory Service Review (“Directory Service Review Team”) will consider the Organisation for Economic Co-operation and Development (“OECD”) Guidelines on the Protection of Privacy and Transborder Flows of Personal Data as defined by the OECD in 1980 and [amended in 2013](#) and as may be amended from time to time.*

*“(iv) The Directory Service Review Team shall assess the extent to which prior [Directory Service Review recommendations](#) have been implemented and the extent to which implementation of such recommendations has resulted in the intended effect.*

*“(v) The Directory Service Review shall be conducted no less frequently than every five years, measured from the date the previous Directory Service Review Team was convened, except that the first Directory Service Review to be conducted after 1 October 2016 shall be deemed to be*

timely if the applicable Directory Service Review Team is convened on or before 31 October 2016.”

In addition to the Bylaws text above, a [Limited Scope Proposal](#) was developed by ICANN Organization in November 2016, at the request of SO/AC leaders, to reflect discussions about how to conduct the RDS-WHOIS2 Review more effectively, while minimizing the impact of the Review on the community. The following text from “[RDS Review - Guidance for Determining Scope of Review](#)” summarizes the limited scope proposal and feedback on that proposal received from SO/AC leaders, highlighting key points that the Review Team should consider when determining the scope of this Review:

*The proposed limited scope suggests that:*

- *The scope be limited to “post mortem” of implementation results of the previous WHOIS review recommendations*
- *ICANN Org report on implementation of WHOIS review recommendations:*
  - *How well were the identified issues addressed?*
  - *How well were the recommendations implemented?*
- *Review scope exclude issues already covered by RDS PDP effort*

*The [GNSO feedback](#) indicates their support for excluding issues already covered by the RDS PDP efforts, to avoid duplication of work, and the proposed limited scope. Additionally, GNSO suggests the scope to include and assess:*

- *Whether RDS efforts meet the “legitimate needs of law enforcement, promoting consumer trust and safeguarding registrant data.”*
- *How RDS current & future recommendations might be improved and better coordinated*
- *Privacy and Proxy Services Accreditation Issues and Implementation*
- *The progress of WHOIS cross-departmental validation implementation*
- *Compliance enforcement actions, structure, and processes*
- *Availability of transparent enforcement of contractual obligations data*
- *The value and timing of RDAP as a replacement protocol*
- *The effectiveness of any other steps ICANN Org has taken to implement WHOIS Recommendations*

*The GAC feedback noted that, while many of its members have no objection to the proposal to limit the scope of the review, a few members expressed concerns that this would not be appropriate given that a) the current WHOIS may still be in use for a while and its improvement should not be neglected; and b) the scope of a review should best be determined by the Review Team itself. At the relevant plenary, GAC members expressed general support for the GNSO feedback, noting that overlap with the RDS PDP might not be entirely avoided.*

*The ALAC and SSAC have both indicated support of the proposed limited scope, and exclusion of issues covered by RDS PDP.*

**Deleted:** *The [GAC feedback](#) noted that many of its members have no objection to the proposal, but a few members expressed concerns regarding the exclusion of issues that are covered by the RDS PDP effort, due to the length of time PDP takes. -*

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In summary, the majority of the SOs and ACs agree that the RDS-WHOIS2 Review scope should be determined in very close coordination with other ongoing community efforts to avoid duplication of work. Moreover, given the concerns regarding the community bandwidth, sheer amount of work associated with a full Review scope, and the length of time it takes to conduct a full Review (12-18 months) compared to the proposed limited scope (approximately six (6) months), the proposed limited scope may be the most feasible approach and best use of community resources.

In line with the Bylaws, and after considering the limited scope proposal and feedback, the Review Team agreed by consensus to define the scope of the Review to address the following objectives:

**As per the Bylaws, Section 4.6(e):**

- **Assessment of the effectiveness of the current gTLD registry directory service;**
- **Assessment of whether its implementation meets the legitimate needs of law enforcement, promoting consumer trust and safeguarding registrant data;**
- **Assessment of the extent to which the recommendations of the first WHOIS Review Team Report of 2012 have been implemented and the extent to which implementation of such recommendations has resulted in the intended effect. This assessment will encompass inter alia:**
  - **Privacy and Proxy Services Accreditation Issues and Implementation**
  - **The progress of WHOIS cross-departmental validation implementation**
  - **Compliance enforcement actions, structure, and processes**
  - **Availability of transparent enforcement of contractual obligations data**
  - **The suitability of RDAP as a replacement protocol in view of current technical requirements**
  - **The effectiveness of any other steps ICANN Org has taken to implement WHOIS Recommendations**

**The Review does not extend to issues of policy development as covered by the RDS PDP.**

**The objectives are listed in order of priority as reflected in the prioritization of the Bylaws, which the Review Team endorses.**

**Definitions**

An assessment of this type requires a common understanding of the key terms associated with the review. Initially, the RDS-WHOIS2 Review Team is operating under the following definitions:

From [Glossary of WHOIS Terms](#):

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**Comment [A1]:** Meaning to be defined

**Comment [A2]:** To be completed; bullets below inspired by GNSO proposal

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**Comment [A3]:** Wording tries to reflect discussions on calls and email; to be discussed further

**Comment [A4]:** This formulation tries to reflect the conflict expressed by several members of the review team between our obligations as part of the review and the need to avoid overlap. It acknowledges that policy development is not part of our mandate while keeping open the possibility to assess the current status quo even where it is currently subject to possible modification as part of the PDP.

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**Deleted:** *(Objectives reflecting agreed scope of the review to be developed by the Review Team and inserted below, with each bullet providing (a) description of the Objective and (b) relationship to Specific Review requirements and to ICANN's mission as noted in the Bylaws) -*

As noted in "Considerations with regard to Review Team Recommendations," objectives must be consistent with both ICANN's mission and Bylaw requirements for this Specific Review. In addition, objectives should be set forth in priority order and accompanied by a description of prioritization criteria applied by the Review Team. ... [1]

**Deleted:** As noted in "Considerations with regard to Review Team Recommendations," objectives must be consistent with both ICANN's mission and Bylaw requirements for this Specific Review. In addition, objectives should be set forth in priority order and accompanied by a description of prioritization criteria applied by the Review Team. ... [2]

- **Domain:** A set of host names consisting of a single domain name and all the domain names below it.
- **Domain Name:** As part of the Domain Name System, domain names identify IP resources, such as an Internet website.
- **GNSO - Generic Names Supporting Organization:** The supporting organization responsible for developing and recommending to the ICANN Board substantive policies relating to generic top-level domains. Its members include representatives from gTLD registries, gTLD registrars, intellectual property interests, Internet service providers, businesses and non-commercial interests.
- **gTLD - Generic Top Level Domain:** Most TLDs with three or more characters are referred to as "generic" TLDs, or "gTLDs", such as .COM, .NET, and .ORG. In addition, many new gTLDs such as .HOTELS and .DOCTOR are now being delegated.
- **Registrar:** Domain names can be registered through many different companies (known as "registrars") that compete with one another. The registrar you choose will ask you to provide various contact and technical information that makes up the registration. The registrar will then keep records of the contact information and submit the technical information to a central directory known as the "registry." This registry provides other computers on the Internet the information necessary to send you e-mail or to find your web site. You will also be required to enter a registration contract with the registrar, which sets forth the terms under which your registration is accepted and will be maintained.
- **Registry:** The "Registry" is the authoritative, master database of all domain names registered in each Top Level Domain. The registry operator keeps the master database and also generates the "zone file" which allows computers to route Internet traffic to and from top-level domains anywhere in the world. Internet users don't interact directly with the registry operator; users can register names in TLDs including .biz, .com, .info, .net, .name, .org by using an ICANN-Accredited Registrar.
- **WHOIS:** WHOIS protocol (pronounced "who is"; not an acronym) An Internet protocol that is used to query databases to obtain information about the registration of a domain name (or IP address). The WHOIS protocol was originally specified in RFC 954, published in 1985. The current specification is documented in RFC 3912. ICANN's gTLD agreements require registries and registrars to offer an interactive web page and a port 43 WHOIS service providing free public access to data on registered names. Such data is commonly referred to as "WHOIS data," and includes elements such as the domain registration creation and expiration dates, nameservers, and contact information for the registrant and designated administrative and technical contacts. WHOIS services are typically used to identify domain holders for business purposes and to identify parties who are able to correct technical problems associated with the registered domain.
- **(The RT may choose to include additional terms from the glossary here)**

**Comment [A5]:** Dmitry's suggestion: add definition of IDN

ICANN org comment for your consideration. The following definition is available in the ICANN glossary:

**IDNs — Internationalized Domain Names**  
 IDNs are domain names that include characters used in the local representation of languages that are not written with the twenty-six letters of the basic Latin alphabet "a-z". An IDN can contain Latin letters with diacritical marks, as required by many European languages, or may consist of characters from non-Latin scripts such as Arabic or Chinese. Many languages also use other types of digits than the European "0-9". The basic Latin alphabet together with the European-Arabic digits are, for the purpose of domain names, termed "ASCII characters" (ASCII = American Standard Code for Information Interchange). These are also included in the broader range of "Unicode characters" that provides the basis for IDNs.  
 The "hostname rule" requires that all domain names of the type under consideration here are stored in the DNS using only the ASCII characters listed above, with the one further addition of the hyphen "-". The Unicode form of an IDN therefore requires special encoding before it is entered into the DNS.  
 The following terminology is used when distinguishing between these forms:  
 A domain name consists of a series of "labels" (separated by "dots"). The ASCII form of an IDN label is termed an "A-label". All operations defined in the DNS protocol use A-labels exclusively. The Unicode form, which a user expects to be displayed, is termed a "U-label". The difference may be illustrated with the Hindi word for "test" — परीक्षा — appearing here as a U-label would (in the Devanagari script). A special form of "ASCII compatible encoding" (abbreviated ACE) is applied to this to produce the corresponding A-label: xn — 11b5bs1di.  
 A domain name that only includes ASCII letters, digits, and hyphens is termed an "LDH label". Although the definitions of A-labels and LDH-labels overlap, a name consisting exclusively of LDH labels, such as "icann.org" is not an IDN.

From [SAC051](#), Report on Domain Name WHOIS Terminology and Structure:

- **Domain Name Registration Data (DNRD)** – refers to the information that registrants provide when registering a domain name and that registrars or registries collect. Some of this information is made available to the public. For interactions between ICANN Accredited Generic Top Level Domain (gTLD) registrars and registrants, the data elements are specified in the current Registrar Accreditation Agreement. For country code Top Level Domains (ccTLDs), the operators of these TLDs set their own or follow their government’s policy regarding the request and display of registration information.
- **Domain Name Registration Data Access Protocol (DNRD-AP)** – refers to the elements of a (standard) communications exchange—queries and responses—that make access to registration data possible. For example, the WHOIS protocol (RFC 3912) and Hypertext Transfer Protocol (HTTP) (RFC 2616 and its updates) are commonly used to provide public access to DNRD.
- **Domain Name Registration Data Directory Service (DNRD-DS)** – refers to the service(s) offered by registries and registrars to provide access to (potentially a subset of) the DNRD. ICANN Accredited gTLD registries and registrars are required by contracts to provide the DNRD Directory Services via both port 43 and over the web interface. For ccTLDs, the TLD registries determine which service(s) they offer.

Additional definitions:

- **Registration Data Directory Service (RDDS)** – Registration Data Directory Services refers to the collective of WHOIS and Web based WHOIS services. [\[2013 RAA\]](#)
- **(The RT may choose to include additional terms here, as needed to reflect the Review’s agreed scope. Possible definition sources include: Privacy and Proxy Services Accreditation Issues (PPSAI) PDP Final Report, Thick WHOIS PDP Final Report, Translation/Transliteration of Contact Information PDP Final Report, WHOIS ARS Project Validation Levels, and the first WHOIS Review Team Final Report Glossary. Additional resources are posted on the Review Team’s Background Materials page.)**

**Deliverables & Timeframes:**

The Review Team shall respect the timelines and deliverables as outlined in this document. The Review Team shall develop a work plan that outlines the necessary steps and expected timing in order to achieve the milestones of this review, as agreed on below. The Review Team shall follow its published work plan to address Review objectives within the available time and specified resources. Progress towards time-bound milestones defined in the work plan shall be tracked and published on Fact Sheet. **Please note: The length of Specific Reviews is variable, but an initial timeline should be included in the Terms of Reference.**

**Timeline: (starting point for refinement by Review Team)**

- Jul-Sep 2017: Agree to terms of reference and work plan
- Oct 2017-Feb 2018: Fact-finding and assembling materials
- Mar-Jun 2018 (ICANN 62): Assemble findings and consult with ICANN community
- Oct 2018 (ICANN 63): Socialize draft findings and recommendations with community
- Nov 2018: Publish draft report for public comment
- Jan-Feb 2019: Review input received and incorporate, as appropriate
- Mar 2019 (ICANN 64): Send final report to ICANN Board



(Above timeline represents an 18 month review. Actual timeline depends upon scope agreed to by the Review Team and may be abbreviated for a limited scope review. However, regardless of scope, the timeline should include the milestones enumerated above and target dates for each.)

#### Deliverables:

The Review Team shall produce at least one **Draft Report** and a **Final Report**. The Draft Report should include the following:

- Overview of the review team’s working methods, tools used and analysis conducted.
- Facts and findings related to the investigation of the objectives identified in the scope, and address all questions raised in the ToR.
- Data provisions on all aspects described in the scope (see above), and an analysis of information/data collected.
- Self-assessment of what processes (pertinent to the scope) work well and where improvements can be made; the self-assessment ought to be based on and refer to facts, findings, and data provision wherever possible.
- Preliminary recommendations that address significant and relevant issues detected.
- A preliminary impact analysis and a set of metrics to measure the effectiveness of the recommendations proposed by the current Review Team, including source(s) of baseline data for that purpose:
  - Identification of issue
  - Identification of metrics used to measure whether recommendation goals are achieved
  - Identification of potential problems in attaining the data or developing the metrics
  - A suggested timeframe in which the measures should be performed
  - Define current baselines of the issue and define initial benchmarks that define success or failure
  - Metrics may include but are not limited to (Refer to the GNSO’s [Hints & Tips Page](#)):
  - Data retained by ICANN (compliance, finance, policy etc.)
  - Industry metric sources
  - Community input via public comment
  - Surveys or studies

At least one draft report will be submitted for public comment, following standard ICANN procedures. The Review Team may update the draft Report based on the comments and/or other relevant information received, and submit its Final Report to the ICANN Board. The Final Report shall contain the same sections as the Draft Report. As mandated by ICANN’s Bylaws, the Final Report of the Review Team shall be published for public comment in advance of the Board’s consideration.

#### Considerations with regard to Review Team Recommendations:

Review Teams are expected to develop, and follow a clear process when documenting constructive recommendations as the result of the review.

This includes fact-based analysis, clear articulation of noted problem areas, supporting documentation, and resulting recommendations that follow the S.M.A.R.T framework: **S**pecific, **M**easurable, **A**chievable,

Realistic, and Time-Bound.

Additionally, the Review Team is asked to share its proposed recommendations with ICANN Organization to obtain explicit feedback regarding feasibility (e.g., time required for implementation, cost of implementation, and potential alternatives to achieve the intended outcomes.) Proposed recommendations should be provided in priority order to ensure focus on highest-impact areas.

To help Review Teams assess whether proposed recommendations are consistent with this guidance, testing each recommendation against the following questions may be helpful:

- What is the intent of the recommendation?
- What observed fact-based issue is the recommendation intending to solve? What is the “problem statement”?
- What are the findings that support the recommendation?
- Is each recommendation accompanied by supporting rationale?
- How is the recommendation aligned with ICANN’s strategic plan, the bylaws and ICANN’s mission?
- Does the recommendation require new policies to be adopted? If yes, describe issues to be addressed by new policies.
- What outcome is the Review Team seeking? How will the effectiveness of implemented improvements be measured? What is the target for a successful implementation?
- How significant would the impact be if not addressed (i.e., Very significant, moderately significant) and what areas would be impacted (e.g., security, transparency, legitimacy, efficiency, diversity, etc.)
- Does the Review Team envision the implementation to be Short-term (i.e., completed within 6 months), Mid-term (i.e., within 12 months), or Longer-term (i.e., more than 12 months)?
- Is related work already underway? If so, what is it and who is carrying it out?
- Who are the (responsible) parties that need to be involved in the implementation work for this recommendation (i.e., Community, Staff, Board, or combination thereof)
- Are recommendations given in order of priority to ensure focus on highest impact areas?
- If only five (5) recommendations can be implemented due to community bandwidth and other resource constraints, would this recommendation included in the top 5? Why or why not?

Finally, Review Teams are encouraged to engage in on-going dialog with the ICANN Board Caucus Group, both at regularly-scheduled checkpoints (e.g., ICANN meetings) and as-needed when the Review Team reaches a milestone and could benefit from feedback on agreed scope or any recommendations under development to address that scope.

### Section III: Formation, Liaison, Leadership, Other Organizations

#### Membership:

As per the ICANN Bylaws, the Review Team has been selected by the Chairs of ICANN’s Supporting Organizations and Advisory Committees. Members and their gender, SO/AC affiliation, and region are:

|   |                |   |      |    |
|---|----------------|---|------|----|
| 1 | Alan Greenberg | M | ALAC | NA |
|---|----------------|---|------|----|

|    |                       |     |             |     |
|----|-----------------------|-----|-------------|-----|
| 2  | Carlton Samuels       | M   | ALAC        | LAC |
| 3  | Dmitry Belyavsky      | M   | ALAC        | EUR |
| 4  | Cathrin Bauer-Bulst   | F   | GAC         | EUR |
| 5  | Lili Sun              | F   | GAC         | AP  |
| 6  | Thomas L. Walden, Jr. | M   | GAC         | NA  |
| 7  | Erika Mann            | F   | GNSO        | EUR |
| 8  | Stephanie Perrin      | F   | GNSO        | NA  |
| 9  | Susan Kawaguchi       | F   | GNSO        | NA  |
| 10 | Volker Greimann       | M   | GNSO        | EUR |
| 11 | ccNSO to be named     | TBD | CCNSO       | TBD |
| 12 | ccNSO to be named     | TBD | CCNSO       | TBD |
| 13 | ccNSO to be named     | TBD | CCNSO       | TBD |
| 14 | Chris Disspain        | M   | ICANN Board | AP  |

Note: The ccNSO has reserved the right to appoint up to 3 Review Team members once the scope of the Review has been determined.

The ICANN Board has appointed Chris Disspain to serve as a member of the RDS-WHOIS2 Review Team.

By consensus, the Review Team has selected an interim leadership team, consisting of Alan Greenberg (Interim Chair), Cathrin Bauer-Bulst (Interim Vice Chair), and Susan Kawaguchi (Interim Vice Chair). The Review Team anticipates revisiting and finalizing its leadership team when the Review's scope has been agreed upon.

**Roles and Responsibilities of Review Team Members:**

Responsibilities for all Review Team members include:

- Attend all calls and face-to-face meetings whenever feasible.
- Providing apologies for planned absence at least 24 hours in advance.
- Actively engage on email list, including providing feedback when requested to do so through that medium.
- Actively engage with relevant stakeholder groups within the ICANN community, and within each team member's local constituencies.
- Provide fact-based inputs and comments based on core expertise and experience.
- Undertake desk research as required and in accordance with scope of work, including

assessment of implementation of recommendations from prior reviews.

- Be prepared to listen to others and make compromises in order to achieve consensus recommendations.
- Participate in drafting and sub-groups as required.
- Comply with ICANN's expected standards of behavior.
- Comply with all Review Team member requirements, including those described in the "Accountability and Transparency" and "Reporting" sections of this document.

#### **Roles and Responsibilities of Review Team Leadership:**

Responsibilities of the Review Team's Leadership include:

- Remain neutral when serving as Chair or Vice Chair.
- Identify when speaking as an advocate.
- Maintain standards and focus on the aims of the Review Team as established in this Terms of Reference.
- Drive toward delivery of key milestones according to the Work Plan.
- Ensure effective communication between members and with broader community, Board and ICANN Organization.
- Set the agenda and run the meetings.
- Ensure that all meeting attendees get accurate, timely and clear information.
- Determine and identify the level of consensus within the team.
- Provide clarity on team decisions.
- Ensure decisions are acted upon.
- Build and develop team-work.
- Manage the team's budget and financial reporting to maintain accountability and transparency.

#### **Changes to Review Team Membership, Dissolution of Review Team**

##### **Dissolution of Review Team:**

This Review Team shall be disbanded once it has submitted its Final Report to the ICANN Board.

##### **Implementation Phase:**

The Review Team shall identify one or two Review Team Members to remain available for clarification as may be needed during the planning phase of implementation of Review Team Recommendations.

##### **Replacement and Removal of Members:**

*[Review Team to insert here circumstances under which a Review Team member could become unable to continue (e.g., change in personal/professional circumstance, illness) or circumstances (if any) under which a Review Team member could be removed (e.g., refusal to participate in Review Team work, continued inappropriate behavior) and how to replace them. The Review Team Chair(s) could bring this matter to the SO/AC who nominated the respective Review Team member and ask that SO/AC to agree to the removal and name a replacement, in accordance with SO/AC procedures.]*

**Support from ICANN Organization:**

Members of ICANN Organization assigned to the Review Team will support its work, including project management, meeting support, document drafting if/when requested, document editing and distribution, data and information gathering if/when requested, and other substantive contributions when deemed appropriate.

**Dependencies on other Organizations:**

*[Review Team to insert here any dependencies on other key organizations within the ICANN Community, such as the ICANN Board, any other Review Teams that may already be gathering input of relevance to this Review Team, and any GNSO Policy Development Working Groups that may be working on related policy issues.]*

**Section IV: Decision-Making and Methodologies****Decision-Making Methodologies:**

The Bylaws state: “(iii) Review team decision-making practices shall be specified in the Operating Standards, with the expectation that review teams shall try to operate on a consensus basis. In the event a consensus cannot be found among the members of a review team, a majority vote of the members may be taken.” The procedure should align with the Bylaws.

*[Note: Following the precedent set by the SSR2 Review Team, the following material is based on the GNSO Working Group Guidelines, Section 3.6. If a Review Team wishes to deviate from the standard methodology for making decisions or empower the Review Team to decide its own decision-making methodology, this section should be amended as appropriate while maintaining alignment with the Bylaw text provided above.]*

The Review Team Leadership will be responsible for designating each decision as having one of the following designations:

- **Full consensus** - no Review Team members speak against the recommendation in its last readings.
- **Consensus** - a small minority disagrees, but most agree.
- **Strong support but significant opposition** - most of the group supports a recommendation but a significant number do not.
- **Divergence** - no strong support for any particular position, rather many different points of view. Sometimes this is due to irreconcilable differences of opinion and sometimes it is due to the fact that no one has a particularly strong or convincing viewpoint, but the members of the group agree that it is worth listing the issue in the report nonetheless.
- **Minority view** - a proposal where a small number of people support the recommendation. This can happen in response to a **Consensus**, **Strong support but significant opposition**, and **No Consensus**; or, it can happen in cases where there is neither support nor opposition to a

suggestion made by a small number of individuals.

In cases of **Consensus**, **Strong support but significant opposition**, and **No Consensus**, an effort should be made to document that variance in viewpoint and to present adequately any **Minority Views** that may have been made. Documentation of **Minority View** recommendations normally depends on text offered by the proponent(s). In all cases of **Divergence**, the Review Team Chair(s) should encourage the submission of minority viewpoint(s).

The recommended method for discovering the consensus level designation on recommendations should work as follows:

- i. After the Review Team has discussed an issue long enough for all issues to have been raised, understood and discussed, the RT Leadership makes an evaluation of the designation and publish it for the group to review.
- ii. After the Review Team has discussed the RT Leadership's estimation of designation, the Chair(s) should reevaluate and publish an updated evaluation.
- iii. Steps (i) and (ii) should continue until the Chair(s) makes an evaluation that is accepted by the Review Team.
- iv. In rare cases, a Chair may decide that the use of a poll is reasonable. Some of the reasons for this might be:
  - o A decision needs to be made within a time frame that does not allow for the natural process of iteration and settling on a designation to occur.
  - o It becomes obvious after several iterations that it is impossible to arrive at a designation. This will happen most often when trying to discriminate between **Consensus** and **Strong support but Significant Opposition** or between **Strong support but Significant Opposition** and **Divergence**.

Care should be taken in using polls that opinions cast do not become votes. A liability with the use of polls is that, in situations where there is **Divergence** or **Strong Opposition**, there are often disagreements about the meanings of the poll questions or of the poll results.

Based upon the Review Team's needs, the Chair(s) may direct that Review Team participants do not have to have their name explicitly associated with any Full Consensus or Consensus view/position. However, in all other cases and in those cases where a group member represents the minority viewpoint, their name must be explicitly linked, especially in those cases where polls were taken.

Consensus calls should always involve the entire Review Team and, for this reason, should take place on the designated mailing list to ensure that all Review Team members have the opportunity to fully participate in the consensus process. It is the role of the Chair(s) to designate which level of consensus is reached and announce this designation to the Review Team. Member(s) of the Review Team should be able to challenge the designation of the Chair(s) as part of the Review Team's discussion. However, if disagreement persists, Review Team members may use the process set forth below to challenge the

designation.

If several participants (see Note 1 below) in a Review Team disagree with the designation given to a position by the Chair(s) or any other consensus call, they may follow these steps sequentially:

1. Send email to the Chair(s), copying the Review Team explaining why the decision is believed to be in error.
2. If the Chair(s) still disagrees with the complainants, the Chair(s) will forward the appeal to the Board liaison. The Chair(s) must explain his or her reasoning in the response to the complainants and in the submission to the liaison. If the liaison supports the Chair's position, the liaison will provide a response and his or her reasoning to the complainants. If the Board liaison disagrees with the Chair, the liaison will forward the appeal to the Organizational Effectiveness Committee (OEC), the Board committee charged with overseeing Specific Reviews. Should the complainants disagree with the liaison's support of the Chair's determination, the complainants may appeal to the Chair of the OEC or his or her designated representative. If the OEC agrees with the complainants' position, the OEC should recommend remedial action to the Chair.
3. In the event of any appeal, the OEC will attach a statement of the appeal to its Board report, once the Review Team has submitted its Final Report. This statement should include all of the documentation from all steps in the appeals process and should include a statement from the OEC (see Note 2 below).

Note 1: Any Review Team member may raise an issue for reconsideration; however, a formal appeal will require that that a single member demonstrates a sufficient amount of support before a formal appeal process can be invoked. In those cases where a single Review Team member is seeking reconsideration, the member will advise the Chair of their issue and the Chair will work with the dissenting member to investigate the issue and to determine if there is sufficient support for the reconsideration to initial a formal appeal process.

Note 2: It should be noted that ICANN also has other conflict resolution mechanisms available that could be considered in case any of the parties are dissatisfied with the outcome of this process.

#### **Accountability and Transparency:**

Teleconferences will be recorded, subject to the right of a Review Team member to take the discussion "off the record." Face-to-face meetings will be streamed, to the extent practicable, and subject to the right of a Review Team member to take the discussion "off the record." Wherever a meeting is taken "off the record," however, the record shall reflect this decision, as well as the underlying considerations that motivated such action.

The Review Team and supporting members of ICANN Organization will endeavor to post (a) action items within 24 hours of any telephonic or face-to-face meeting; and (b) streaming video and/or audio recordings as promptly as possible after any such meeting, subject to the limitations and requirements described above.

The Review will maintain a wiki, <https://community.icann.org/display/WHO/RDS-WHOIS2+Review>, on which it will post: (a) minutes, correspondence, meeting agendas, background materials provided by ICANN, members of the Review Team, or any third party; (ii) audio recordings and/or streaming video;

(b) the affirmations and/or disclosures of Review Team members under the Review Team's conflict of interest policy; (c) input, whether from the general public, from ICANN stakeholders, from ICANN Organization, the ICANN Board, Supporting Organizations and Advisory Committees, etc. Absent overriding privacy or confidentiality concerns, all such materials should be made publicly available on the Review Team website within 48 business hours of receipt.

Email communications among members of the Review Team shall be [publicly archived](#) automatically via the review email list, [rds-whois2-rt@icann.org](mailto:rds-whois2-rt@icann.org). Email communication between team members regarding Review Team work should be exchanged on this list. In exceptional circumstances, such as when required due to Non-Disclosure Agreement or Confidential Disclosure Agreement provisions, non-public email exchanges may take place between Review Team members and ICANN Organization. When possible, a non-confidential summary of such discussions will be posted to the public review email list.

**Reporting:**

Review Team members are expected to perform their reporting obligations, and provide details in terms of content and timelines. Reporting should start when a Review Team is launched and should continue until its conclusion. The Review Team should include in this section (a) the information to be reported, (b) the report format to be used, and (c) report intervals, to assure accountability and transparency of the RT vis-a-vis the community. In addition, reference to the quarterly Fact Sheets, assembled by ICANN organization, should be made.

*[Review Team to insert requirements here, replacing example below, from CCT1 ToR:*

*Review Team members are, as a general matter, encouraged to report back to their constituencies and others with respect to the work of the Review Team, unless the information involves confidential information.*

*While the Review Team will strive to conduct its business on the record to the maximum extent possible, members must be able to have frank and honest exchanges among themselves, and the Review Team must be able to have frank and honest exchanges with stakeholders and stakeholder groups. Moreover, individual members and the Review Team as a whole must operate in an environment that supports open and candid exchanges, and that welcomes re-evaluation and repositioning in the face of arguments made by others.*

*Members of the Review Team are volunteers, and each will assume a fair share of the work of the team.*

*Members of the Review Team shall execute the investigation according to the scope and work plan, based on best practices for fact-based research, analysis and drawing conclusions.*

*As requested by the ICANN Board, the Review Team will provide regular updates to the Organizational Effectiveness committee; ICANN Organization may assist with this effort.]*

**Sub-teams:**

The Review Team can create as many sub-teams as it deems necessary to complete its tasks through its standard decision process, as follows.



- Sub-teams will be composed of Review Team members and will have a clear scope, timeline, deliverables and leadership.
- Sub-teams when formed will appoint a rapporteur who will report the progress of the sub-team back to the plenary on a defined timeline.
- Sub-teams will operate per Review Team rules and all sub-team requests will require Review Team approval.
- Sub-teams can arrange face-to-face meetings in conjunction with Review Team face-to-face meetings.
- All documents, reports and recommendations prepared by a sub-team will require Review Team approval before being considered a product of the Review Team.
- The Review Team may terminate any sub-team at any time.

**Travel Support:**

Members of the Review Team who request funding from ICANN to attend face-to-face meetings will receive it according to ICANN’s standard travel policies and subject to the Review Team’s budget. When a Review Team face-to-face meeting is held in conjunction with an ICANN meeting, and when outreach sessions have been scheduled, Review Team Members, who are not funded otherwise, may receive funding for the duration of the ICANN meeting.

**Outreach:**

The Review Team will conduct outreach to the ICANN community and beyond to support its mandate and in keeping with the global reach of ICANN’s mission. As such the Review Team will ensure the public has access to, and can provide input on, the Team’s work. Interested community members will have an opportunity to interact with the Review Team, and the Team will present its work and hear input from communities (subject to budget requirements).

**Observers:**

The Review Team shall define a process for Observers to interact with the Review Team.

*[Review Team to insert process here, replacing example below, based on SSR2 Observers process:]*

*Observers may stay updated on the Review Team's work in several ways:*

**Attend a meeting virtually**

All meetings, whether in person or online, will have a dedicated Adobe Connect room for Observers to participate: <https://participate.icann.org/rdsreview-observers>. Observers may subscribe to the Observers email list by sending requests to at [mssi-secretariat@icann.org](mailto:mssi-secretariat@icann.org)

**Attend a meeting in person**

When Review Team members gather for public face-to-face meetings, Observers may attend to share their input and questions the Review Team. The calendar of scheduled calls and meetings is published on the wiki: <https://community.icann.org/display/WHO/RDS-WHOIS2+Review>.

**Email input to the Review Team**

Observers may send an email to the Review Team to share input on their work. Remarks and/or questions can be send to the following address: [input-to-rds-whois2-rt@icann.org](mailto:input-to-rds-whois2-rt@icann.org).]

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| <b>Independent Experts:</b>   |
| <p>As per the Bylaws (Article 4, Section IV(a)(iv)), the Review Team may engage independent experts “to render advice as requested by the review team. ICANN shall pay the reasonable fees and expenses of such experts for each review contemplated by [Section 4.6 of the Bylaws] to the extent such fees and costs are consistent with the budget assigned for such review.”</p> <p>For the purpose of this review, independent experts are third parties that may be contractually engaged to support the Review Team’s work. Should the need for independent experts arise, the Review Team will consider the scope of work required, expected deliverables, necessary skills and expertise, and the budget implications associated with the project. To initiate a request for an independent expert, the Review Team will create and formally approve a statement of work which includes:</p> <ul style="list-style-type: none"><li>• A clear, specific project title and concise description of the work to be performed</li><li>• A description of required skills, skill level, and any particular qualifications</li><li>• Concrete timelines for deliverables, including milestones and measurable outcomes</li><li>• Any additional information or reference material as needed to detail requirements</li></ul> <p>The leadership will communicate the Review Team’s request to ICANN Organization for processing in accordance with ICANN’s standard operating procedures. Selection of experts to support the work of the Review Team will follow ICANN’s procurement processes. The Statement of Work will inform the procurement path to be followed (RFP or no RFP). In either case, ICANN Organization will search for an expert that meets the specified criteria, evaluate each candidate relative to the criteria, negotiate contract terms, and manage the contracting process.</p> |
| <b>Closure &amp; Review Team Self-Assessment:</b>   |
| <p>The Review Team will be dissolved upon the delivery of its Final Report to the Board, unless assigned additional tasks or follow-up by the ICANN Board are being requested.</p> <p>Following its dissolution, Review Team members shall participate in a self-assessment, facilitated by supporting members of ICANN Organization, to provide input, best practices, and suggestions for improvements for future review teams.</p>   |

*(Objectives reflecting agreed scope of the review to be developed by the Review Team and inserted below, with each bullet providing (a) description of the Objective and (b) relationship to Specific Review requirements and to ICANN's mission as noted in the Bylaws)*

*Objective 1– description and relationship to ICANN's mission*

*Objective 2 – description and relationship to ICANN's mission...*

*Objective N – description and relationship to ICANN's mission*

As noted in “Considerations with regard to Review Team Recommendations,” objectives must be consistent with both ICANN’s mission and Bylaw requirements for this Specific Review. In addition, objectives should be set forth in priority order and accompanied by a description of prioritization criteria applied by the Review Team.

If, after the ToR has been adopted and sent to the Board in response to its resolution to constitute the review, the Review Team decides by consensus that the ToR and/or scope needs to be amended, the Review Team must update its ToR (including providing a rationale for any revisions to the ToR, work plan and scope). The revisions must be submitted to the Board along with an explanation for the modification. ICANN Supporting Organizations and Advisory Committees should also be notified of these updates.