



Comment on Long-Term Options to Adjust the Timeline of Reviews

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Business Constituency Submission

GNSO//CSG//BC

Background

This document is the response of the ICANN Business Constituency (BC), from the perspective of business users and registrants, as defined in our Charter:

The mission of the Business Constituency is to ensure that ICANN policy positions are consistent with the development of an Internet that:

1. promotes end-user confidence because it is a safe place to conduct business
2. is competitive in the supply of registry and registrar and related services
3. is technically stable, secure and reliable.

BC comment on Long-Term Options to Adjust the Timeline of Reviews¹

General Points:

The Business Constituency (BC) appreciates this opportunity to comment on ICANN's long-term options to make the Specific and Organizational Reviews mandated by the Bylaws more manageable for the community.

The BC contributed actively to workstreams that have ensured the successful transition of the IANA stewardship functions from the U.S. Department of Commerce to the ICANN community. We regard the bylaws-mandated reviews as key elements of the post-transition accountability process. As active and committed community members, we feel a responsibility to uphold organizational accountability by engaging in the Specific and Organizational Review processes.

By the same token, we acknowledge the point made in this document that the multiplicity of concurrent reviews – as many as 11 are in various phases, taking place on parallel tracks -- together with policy development work and other activities have greatly taxed the volunteer community. Having worked so hard to realize the IANA transition, we would not want the convergence of review deadlines to become so burdensome as to undermine our efforts to ensure that the organization is properly held accountable for its activities. Such burdens likely will become especially acute in the 2018-2019 period as the community undertakes very demanding policy work to develop a Uniform Access model and related unified model for accreditation to ensure that ICANN's WHOIS database policies and related contractual obligations of Registries and Registrars comply with the EU General Data Protection Regulation (GDPR).

In principle, we support thoughtful consideration of how to adjust the timeline of reviews to ensure continued high-quality input from the community members as well as to conserve budgetary and staff resources. The BC appreciates that the proposed long-term options focus solely on the scheduling of reviews to spread them out more evenly. We share the community's view that other factors should be considered to make the reviews more "efficient, effective, and impactful." But we agree with ICANN staff that timing considerations should be addressed first – through this exercise -- and other considerations (review costs, quality assessment, etc.) examined through a subsequent public comment process.

¹ ICANN public comment page at https://www.icann.org/public-comments/reviews-long-term-timeline-2018-05-14-en/mail_form

Principles to Rationalize Review Schedule:

The proposal includes several options aimed at rationalizing the review schedule that are based on the following principles:

1. Staggering the reviews to have no more than one Specific Review running at any time and no more than two Organizational Reviews running concurrently;
2. Adding timing criteria to initiate the next cycle of a Specific or Organizational Review, which could include factors such as a requirement that prior review recommendations be fully implemented and possibly operational for a period of time before the next review is initiated;
3. Adding requirements that Specific Reviews complete their work within 12 months. This requirement could also be applicable to Organizational Reviews (although because Organizational Reviews are conducted by independent examiners based on contractual agreements, timing considerations are already incorporated into the process);
4. Focusing Specific Review teams' work on topics of highest priority to the community; and
5. Adding scheduling flexibility for Specific Reviews to the Bylaws, with appropriate checks and balances.

BC Comments on the Principles:

Staggering Reviews -- We agree that staggering reviews will help to lessen strain on the volunteers and ICANN resources as well as help to improve focus on the reviews and produce a high-quality output. In terms of implementing this principle, the BC would support a mix of (1) "in order of last review occurrence" and (2) "based on strategic importance and priority" as the criteria for staggering the reviews, with a slight preference for the first criteria.

We recognize that the second criteria is reflected in the current Bylaws with respect to the timing of the CCT review, which is mandated to take place after a new gTLD round has been in operation for a year. However, we are concerned that the community-at-large may have different conceptions of what constitutes "strategic importance and priority." In pursuing this option, we urge that the method for defining strategic importance and priority should be specific as possible and defined by a notable development (i.e., a new gTLD Round).

12-Month Deadline for Specific Reviews – It is true that limiting the duration of Specific and Organizational reviews to 12 months, as is the case for that ATRT, would realize cost savings, improve volunteer experience, and potentially enable more diverse participation. Yet, as ICANN staff notes, implementing this option would require the community to reach a shared agreement on how to prioritize topics. The community also would have to determine who should do so.

As we note with respect to option 2 for staggering reviews, however, we question whether the community, with all of its diversity, could agree on priority topics in a timely manner to make this a workable solution to resolve the timing issue. One stakeholder's priority may be another stakeholder's lower concern. This potentially adds another layer to the process and would compound scheduling challenges.

Adding Timing Criteria – The option of requiring that recommendations from the prior Specific or Organizational Review be implemented before the next review begins also has some drawbacks. As staff noted, this approach would enable reviews to be informed by prior reviews and contribute to continuous improvement. But this could create a lack of predictability in the cycle if implementation takes longer than expected, and there may be many recommendations arising from a single review.

Staff proposes that a shared agreement between the Review Team, the ICANN community, and the ICANN Board about the desired outcome from each review recommendation and how to measure completion, along with SMART and prioritized recommendations issued by both Specific Review Teams and the independent examiners conducting the Organizational Reviews would help to mitigate against the lack of predictability.

Again, we are concerned that the time required for the proposed scoping and development of appropriate metrics, combined with the actual Review, would further complicate efforts to streamline scheduling.

BC Proposal – The principle of “adding scheduling flexibility to the bylaws” aligns quite closely with the BC’s proposed *alternative approach* – which also incorporates the principle of staggering Specific Reviews.

Since Specific Reviews are conducted by community volunteers designated by Supporting Organizations and Advisory Committees, we propose that the community determine the speed of the review. If necessary, the community might “pause” a review in response to extraordinary or unanticipated development to ensure that the review receives proper focus (e.g., GDPR developments).

The BC recognizes the need for checks and balances to ensure that these accountability tools are not weakened. We therefore propose that the community would be required to inform the Board about the need to “pause” or delay a review and present a timeline for resumption or initiation of the review. We agree with the suggestion of staff that any community-initiated request for delaying a review be approved by two-thirds of all SO/ACs.

The BC acknowledges that certain Bylaws section may need to be modified to implement this approach and further checks and balances contemplated. However, we believe that the broader community would support this approach because they would be empowered to regulate the onset of cycle of the review. Moreover, the community would not be plunged into extensive discussions determining priorities or be required to “front-load” the scoping of the Review.

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This comment was drafted by Barbara Wanner.

It was approved in accord with the BC charter.