

Subject: FW: [ccNSO-Tracker] Fwd: Requests for clarification/confirmation wrt ccPDP3 Review Mechanism
Date: Monday, April 29, 2024 at 7:26:02 AM Mountain Daylight Time
From: Kimberly Carlson
Attachments: 20240423 - Review of ccPDP3 RM Sections 2-6 - Questions to the ccNSO.xlsx, ATT00001.txt

----- Forwarded message -----

From: **Katrina Sataki** <katrina.sataki@board.icann.org>
Date: Wed, Apr 24, 2024 at 12:58 PM
Subject: Requests for clarification/confirmation wrt ccPDP3 Review Mechanism
To: Alejandra Reynoso Barral <alejandra.reynoso@gmail.com>
Cc: <ccnsosecretariat@icann.org>, Patricio Poblete <patricio.poblete@board.icann.org>, Correspondence <Correspondence@icann.org>

Dear Alejandra,

I am writing to inform the ccNSO of the progress made to date regarding the assessment of the feasibility of the proposed policy for a Review Mechanism Pertaining to IANA Naming Function Operator (IFO) decisions that apply to ccTLDs and to request additional information.

As mentioned in my January 2024 report, the Board Caucus was formed in June 2023 with three objectives:

- (i) To evaluate the proposed policy for a Review Mechanism Pertaining to IANA Naming Function Operator (IFO) decisions that apply to ccTLDs, and provide recommendations to the Board, including in potential dialogue with the ccNSO Council when needed.
- (ii) To provide strategic advice to ICANN org during the implementation phase of the proposed policy.
- (iii) To develop a Supplemental Board Statement and engage in subsequent dialogue in the event that the Board does not accept recommendations.

Following the closure of Public Comment period and solicitation of GAC advice as mandated by the Bylaws, the Caucus support staff initiated an in-depth analysis of sections 2-6 of the Board report. This analysis served as the initial step in assessing the feasibility of implementation. Its aim was to ensure that the understanding and interpretation of the policy is unambiguous and aligns with the intentions of the ccNSO. As a result of this analysis, forty-three (43) instances were identified where additional information of the ccNSO would be beneficial in assessing the feasibility of implementing the proposed review mechanism and identify any necessary modifications.

The additional information is requested using two types of questions:

- Requests for confirmation: The purpose of these requests is to seek confirmation from the ccNSO that ICANN's understanding and/or interpretation of a specific section is correct/ aligns what the ccNSO intended.
- Requests for clarification: The purpose of these requests is to seek further information or clarification from the ccNSO on a specific topic that is not clear from the language of the CCRM Policy.

After analyzing the CCRM Policy language, we've identified a foundational assumption that requires confirmation from the ccNSO: any Review of an IFO Decision under the CCRM Policy is limited to a review of whether the IFO properly followed its process in reaching that decision (a procedural review), and that the substantive, material review of an IFO Decision is not subject to review. Once this foundational element is confirmed, we will evaluate each aspect of the review mechanism to ensure alignment with this principle and determine whether each proposed step advances the objectives of the CCRM (low cost, fast, minimize total time).

The questions that have been compiled in the attached document, are organized into columns as follows:

- Column A: Comment Number (1 through 43)
- Column B: Relevant section in the Board Report
- Column C: Relevant text from the Board Report to provide context for the question
- Column D: Request for clarification (highlighted in yellow) or request for confirmation of interpretation (highlight in green)
- Column E: Open space for ccNSO comments

Given the breadth of the inquiry, we understand that the ccNSO may require time to respond fully. However, we would appreciate your responses at your earliest convenience. Once we receive your responses, the Caucus support staff will continue the assessment of implementation feasibility.

Should the ccNSO have any questions on this matter in the interim, please do not hesitate to contact me.

Kindest regards,

Katrina Sataki,
On behalf of the Board Caucus ccPDP3 RM