Framework of Interpretation Working Group (FOIWG)

Significantly Interested Parties

V3.0 (approved)

1 Background and Introduction

1.1 The Final Report of the DRDWG identified the following issues with this topic:

1.1.1 An analysis of all approved delegation and re-delegation requests published by ICANN indicates a significant degree of inconsistency in applying the "Interested Parties" requirement. This includes the approval of a number delegation and re-delegation requests which have no documentation indicating any support by Interested Parties.

2 Objectives

2.1 Identify applicable polices and procedure statements.
2.2 Analyze all past cases of re-delegations vs. Interested Parties and identify issues vs applicable policies and procedures.
2.3 Identify and analyse any issues arising.
2.4 Develop recommendations and interpretations as appropriate.

3 Applicable Policy Statements and Guidelines

3.1 RFC1591

3.1.1 Section 3.4 "*Significantly interested parties in the domain should agree that the designated manager is the appropriate party.*

The IANA tries to have any contending parties reach agreement among themselves, and generally takes no action to change thing unless all the contending parties agree; only in cases where the designated manager has substantially mis-behaved would the IANA step in.

However, it is also appropriate for interested parties to have some voice in selecting the designated manager."

3.1.1.1   Issues

    3.1.1.1.1   There is no documentation identifying who should be included in Significantly Interested Parties, Contending Parties or Interested Parties or how to determine this.

    3.1.1.1.2   There is no documentation as to how these Parties should be contacted or how they should agree that the designated manager is the appropriate party.

    3.1.1.1.3   There is no documentation as to how to evaluate the input to see if it meets the requirement.

3.1.2   Section 3.6 "*It is also very helpful for the IANA to receive communications from other parties that may be concerned or affected by the transfer.*"

3.1.2.1   Issues

    3.1.2.1.1   There is no documentation of who should be included in other parties that may be concerned or affected by the transfer or how to determine this.

    3.1.2.1.2   There is no documentation as to how these Parties should communicate with IANA or what these communications should include.

    3.1.2.1.3   There is no documentation as to how to evaluate the input to see if it meets the requirement.

3.2 GAC Principles 2005

3.2.1   "*7.1. Principle - Delegation and re-delegation is a national issue and should be resolved nationally and in accordance with national laws, taking into account the views of all local stakeholders and the rights of the existing ccTLD Registry….*"

3.2.2   Issues

    3.2.2.1   There is no documentation of who should be included in "all local stakeholders" or how to determine this.

    3.2.2.2   There is no documentation as to who these local stakeholders should communicate to or how they should do it.

    3.2.2.3   There is no documentation as to how to evaluate the input to see if it meets the requirement.

4   Relevant Procedures

4.1 Note – these procedures are only presented for information on current practices and are not considered as applicable policy statements for the FOIWG.

4.2 "Understanding the ccTLD Delegation and Redelegation Procedure" from the IANA website (http://www.iana.org/domains/root/delegation-guide/). The following sections are relevant to the topic of consent:

> 4.2.1 *"Those parties served by the ccTLD are asked to show that they support the request and that it meets the interests and needs of the local Internet community."*

> 4.2.2 From the section titled Submitting the "*Request "information showing the change serves the local interest in the country*"

> *4.2.3 "2. Documentation showing that the request serves the local interest*

> *Crucial to the request are statements of support from the local Internet community. This documentation should provide information demonstrating that the request would be in the interests of the Internet community served by the ccTLD.*

> *Good examples of this documentation include statements from national ISPs and ISP associations, Internet user groups, and Internet Society chapters showing support for the request. Other possibilities include statements from national consortia of electronic commerce providers or trademark and intellectual property holders. It would also be instructive to summarise the usage of Internet in the country, and an explanation on why the statements provided (and the organisations they are from) are representative of the community. If there is disagreement about how the ccTLD is run within the community, explain the circumstances and the different points of view, and why your application is the most appropriate path to serve the Internet community's interests."*

> *4.2.4 "Government contact*

> *In this short section, the applicant should provide documentation indicating that any appropriate government officials have been informed about the request. A statement of support from the relevant government department or agency is effective in meeting this requirement."*

4.2.5 Issues

4.2.5.1   There is no mention of SIP, other Parties or Stakeholders. Instead there are those parties served by the ccTLD, Local Internet Community (LIC) and Government Contact. The terminology should be defined or edited to use the terms of RFC1591.

4.2.5.2   There could be a conflict of interest in having the applicant provide the SIP documentation of support for a delegation or re-delegation request.

4.2.5.3   There is no documentation as to how to evaluate if the SIP support meets the requirement.

4.2.5.4   The relationship between 'serving the local interest' and obtaining support for a delegation or re-delegation is unclear.

4.2.5.5   Should the government have a special standing as described in this procedure?

4.2.6 Note – IANA has confirmed it has no references as to who should be included as an interested party or how to evaluate if the input received meets the requirements as documented in RFC1591 or in the GAC Principles 2005. Once IANA is satisfied that there is no additional input that will be provided by the applicant regarding SIP support for the request it will consider the information gathering for this requirement complete. The ICANN Board, which has no published criteria for evaluating this input, will consider the SIP input when reviewing the request for approval.

5   Analysis of IANA Reports on re-delegations

5.1 Classification of support - Given the documentation of support by either Interested Parties or government varies in IANA reports on re-delegations it is necessary to define a system for the classification of consent from these parties to support a meaningful analysis. The classification system developed for this is based on the following definitions:

5.1.1   Documented – The IANA report includes some reference as to how the party provided support.

5.1.2   Implied – Although there is no reporting of support there is some information in the IANA Report which could imply support of the party.

5.1.3   Not Addressed – there is no mention of support in the IANA Report.

5.1.4   Noted – IANA simply notes or states that the parties or government support the request without any additional documentation.

5.1.5 Classification of support

FOIWG – SIP support - Analysis		
	Government	**Others**
Documented	**70%**	**22%**
Implied	**2%**	**6%**
Not Addressed	**0%**	**32%**
Noted	**28%**	**40%**

5.2 Issues

5.2.1 32% of re-delegations are approved without IANA documenting any support from non-government SIPs.

5.2.2 For IANA reports where no information is given on support from non-governmental SIPs, information is rarely provided explaining or commenting on this absence.

6 Summary and analysis of issues.

6.1 The number of terms used can lead to confusion. ICANN and IANA should use a single term when referring to SIP.

6.1.1 RFC1591 refers to SIP and Parties that may be concerned or affected
6.1.2 The GAC Principles 2005 refer to the Stakeholders.
6.1.3 IANA procedures refer to the LIC.

6.2 There is no documentation as to who can be considered a SIP.

6.2.1 The examples provided in the IANA procedures do not provide a definition of SIP.

6.3 Relevant government or territorial authority roles in delegation and re-delegation should be clarified.

6.4 Having the applicant for a delegation or re-delegation providing the documentation of SIP support allows for a conflict of interest on its part and could limit the SIP input.

6.5 There is no documentation as to how SIP input for a request will be evaluated.

6.6 There is no requirement for IANA reports to clearly document and explain SIP support for a request.

    6.6.1 There is no policy or procedure requirement that IANA publish IANA reports on delegations and re-delegations.

    6.6.2 IANA has published these reports for all delegations and re-delegations since 2000.

    6.6.3 Publishing these reports is consistent with the ICANN bylaw requirement for accountability and transparency.

    6.6.4 These reports are, in most cases, the only publicly available documentation of delegations and re-delegations beyond the ICANN Board minutes which often contain very limited information.

    6.6.5 There is now an expectation, at least from the ccTLD community, that IANA publish these reports for all delegations and re-delegations.

7 Recommendations

7.1 IANA should undertake the steps necessary to implement the following interpretations of policies:

    7.1.1 Definition of Significantly Interested Parties- Significantly Interested Parties include, but are not limited to: a) the government or territorial authority for the country or territory associated with the ccTLD and b) any other individuals, organizations, companies, associations, educational institutions or others that have a direct, material, substantial, legitimate and demonstrable interest in the operation of the ccTLD(s) including the incumbent manager.

        7.1.1.1 This interpretation should not be taken as implying the elimination or replacement of any of the requirements relating to consent of the proposed and current managers (where applicable).

        7.1.1.2 To be considered a Significantly Interested Party, any party other than the government or territorial authority for the country or territory associated with the ccTLD must demonstrate that it is has a direct, material, legitimate and demonstrable interest in the operation of the ccTLD(s).

    7.1.2 Applicants should be encouraged to provide documentation of the support of

stakeholders for the delegation, re-delegation, or revocation request(s), but IANA should also provide an opportunity for Stakeholders to comment on the request via a public process.

7.1.2.1   These requirements do not modify or eliminate the rights, if any, of a delegated manager existing prior to the adoption of RFC 1591.

7.1.2.2   "Stakeholders" is used here to encompass Significantly Interested Parties, "interested parties" and "other parties" referenced in RFC 1591.

7.1.2.3   Classification of input – IANA should develop, publish, and document its compliance with procedures for consideration of input from Stakeholders, taking into account the nature of the commenting party's interest in the delegation, transfer (uncontested re-delegation), revocation, and operation of the ccTLD and the relevance, substance and weight of such input. This classification should be based on these FOIWG interpretation of Significantly Interested Parties. This classification must also take into account that:

7.1.2.3.1   In the case of a delegation, Significantly Interested Parties should agree that the designated manager is the appropriate party and that other Stakeholders have some voice in selecting the manager.

7.1.2.3.2   In the case of a transfer, Stakeholder input should be considered and taken into account.

7.1.3 IANA reports on delegations, transfers and revocations should reflect consistent application of these FOIWG recommended guidelines and should include the detailed results of IANA's evaluation of Stakeholder input regarding the requested action.

7.2 The IANA functions manager is requested to inform the GAC and ccNSO at each ICANN meeting on the plan and progress to date in implementing these FOIWG recommended guidelines.

7.3 Should the IANA functions manager choose not to comply with these FOIWG recommended guidelines in connection with any specific delegation, transfer, or revocation, it should provide the rationale for doing so in a public report.

7.4 Any changes to these FOIWG recommended guidelines should be the subject of a formal

public consultation as per ICANN standard procedures.