

I C A N N
ANNUAL GENERAL

63

BARCELONA

20-25 October 2018



Independent Review Process (IRP) Implementation Oversight Team (IOT)

Update

ICANN 63



October 2018

Presentation

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1.1 Reminder about the IRP at ICANN

ICANN operates a separate process for independent third-party review of Disputes – the Independent Review Process (IRP). The International Centre for Dispute Resolution (ICDR) currently administers ICANN's Independent Review Processes. ICANN IRPs are governed by the ICDR's International Dispute Resolution Procedures as modified by Supplementary Procedures for ICANN's IRP.

1.2 Reminder about the IRP at ICANN

- ⊙ **Bylaw 4.3(a) – “Purposes of IRP” include (among others):**
 - **(i) ensure ICANN compliance with Articles/Bylaws; stays within Mission.**
 - **(ii) empower community/claimants to enforce such compliance.**
 - **(iv) and (v) handle IANA Naming Function claims;**
 - **(vi) and (viii) create precedent with ‘binding, final resolutions’ that are enforceable.**

2.1 Review of the history leading to the creation of the IOT

- ⊙ **Going into CCWG-Accountability WS1 there was significant community support to review the current IRP rules. Some of the major areas of concern included:**
 - **Timeframes for filing an IRP request**
 - **Enforceability of decisions**
 - **Lack of a standing panel (panelists who are familiar with ICANN)**
 - **Who can participate in an IRP request.**
- ⊙ **The CCWG-Accountability Work Stream 1 (WS1) in its final report included Recommendation 7 regarding the IRP which required that further work be undertaken by a CCWG to complete developing the changes required to the IRP.**

2.2 Review of the history leading to the creation of the IOT

- ⊙ This WS1 recommendation was included in the ICANN Bylaws under Section 4.3(n)(i) which required the creation of an IRP Implementation Oversight Team (IOT - a CCWG) to undertake this work.**
- ⊙ Although the IOT was meant to be an independent process it was bundled in with the CCWG-Accountability WS2 for administrative simplicity while WS2 was ongoing.**
- ⊙ The IOT is now an independent CCWG project given WS2 has made its recommendations.**

3.1 Objectives of the IOT

- **Complete recommendations to update the supplementary rules of procedure;**
- **Develop rules for Cooperative Engagement Process (CEP);**
- **Address standards and rules governing appeals;**
- **Consider panelist term limits, additional independence considerations.**

4.1 Current status of the IOT

- **The IOT has completed two public consultations on draft supplementary rules.**
- **Most elements of the supplementary rules have been agreed to and should be implemented by ICANN in an interim set of supplementary rules until all points are agreed to.**
- **The remaining points of the supplementary rules include:**
 - **Time to file considerations.**
 - **Types of hearings.**

4.2 Current status of the IOT

- In order to complete its work, the IOT needs some additional members. Therefore, we are looking to the community to identify qualified members (preferably with legal experience/training) who are willing to participate in the important work that remains. See:
 - Bylaw section 4.3(n)(i):
 - An IRP Implementation Oversight Team shall be established **in consultation with the Supporting Organizations and Advisory Committees ...**

5.1 Establishment of Standing Panel

- Establishment of Standing Panel (currently ongoing) is a **requirement** for the new IRP which is in the Bylaws (section 4.3(j)) which requires input from the SOs and ACs.
 - At least seven members “with relevant legal expertise”;
 - ICANN Org to issue request for Expressions of Interest;
 - ICANN Org to **work with SOs/ACs/Board to solicit, review, and vet applications.**
 - **SOs/ACs “shall nominate” panel members – Board to confirm.**

5.2 Establishment of Standing Panel

- Panel members need to be nominated.**
- The community needs to confirm the process it will use to participate in the selection process to nominate panel members.**

6.1 Remaining work

- **Complete recommendations to update the supplementary rules of procedure - underway**
- **Develop rules for Cooperative Engagement Process (CEP) – Needs to be started.**
- **Address standards and rules governing appeals – needs to be started.**
- **Consider panelist term limits, additional independence considerations – needs to be started.**

7.1 Conclusion

- **The IRP is the cornerstone of the accountability reforms at ICANN given its decisions are binding on ICANN.**
- **The work must be completed effectively and expeditiously.**