

To: Heather Dryden, Chair of the GAC

cc: Suzanne Radell, Frank March, Keith Davidson

Subject: Final Report FOIWG on "Consent"

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Dear Heather,

The ccNSO Framework of Interpretation WG welcomed the comments from the GAC¹ and is pleased to note that the GAC agrees that the goal of clear and consistently applied procedures will be achieved with the expectation of implementation of the proposed guidelines related to the consent by incumbent ccTLD managers.

In the comments there are several suggestions, for greater clarity, to amend the proposed guidelines. After careful consideration of the suggestions, with members of the GAC providing further explanation, the FOI working group believes that the recommendations and comments of the GAC are provided for, in a manner that the recommendations on Consent do not have to be amended. The detailed considerations of the suggestions and recommendations are included in the Annex to this letter.

The working group has therefore finalized the Report on Consent at its meeting on 23 February 2012 which now also includes a description of the public consultation process.

On behalf of the ccNSO FOIWG I want to use this opportunity to submit the Final Report to the GAC to seek its endorsement for the Recommendations, in accordance with the charter of the WG². The Final Report has also been submitted to the ccNSO for the same purpose.

I would like to take this opportunity to again thank the GAC for its support for the FOI working group's Interim Report on "Consent" as well as for its ongoing collaboration and engagement with the working group.

Please advise us if the GAC has any additional advice or recommendations with respect to the FOI working group's interim report on "Consent" or any other aspects of our activities.

Lesley Cowley OBE,
Chair of the ccNSO.

¹ <http://ccnso.icann.org/workinggroups/draft-gac-comments-foiwb-interim-report-on-consent-31jan12-en.pdf>

² <http://ccnso.icann.org/workinggroups/charter-foiwb-07jun11-en.pdf>

Annex A: Consideration of GAC suggestions and recommendations

In the GAC comments there are several suggestions, for greater clarity, to amend the proposed guidelines to address the situation where consent either cannot or is not provided by an incumbent operator:

- The inclusion of a 60 day deadline - Such deadlines are considered implementation details by the FOIWG and are not included in our official recommendations. The main reason for this is that the FOIWG is not privy to all of the operational requirements, which the IANA function manager is subject to and as such does not wish to make recommendations, which would be difficult or impossible for the IANA function manager to implement. This being said it is reasonable that the FOIWG suggest to the IANA function manager that a deadline requirement should be part of the processes to implement the recommendations of the FOIWG with respect to Consent.
- "Clarification that the inability or a refusal to provide consent will be more fully addressed in the FOIWG's subsequent paper on "un-consented redelegations". - The published work plan of the FOIWG clearly indicates that it will address un-consented re-delegations, or revocations followed by delegations. The FOIWG is currently in the process of interpreting the relevant policies and guidelines for the revocation of a ccTLD from an incumbent manager and it is our expectation that we will deal with the issue you raise in this phase of our work. As such the FOIWG is of the view that it is not necessary to amend our proposed guidelines on Consent given we will be addressing this in our work on Revocation.

The FOIWG fully concurs with the GAC that the terminology on the IANA function manager website should be aligned and consistent with the proposed guidelines, and more importantly with RFC 1591 and the GAC principles. For that matter the GAC strongly recommends that the FOIWG consent guidelines be amended to include a requirement that the terminology on the IANA function manager website be made consistent with the FOIWG terminology. According to the published work plan of the FOIWG, proposals to resolve terminology issues will be developed in parallel with the development of the substantial guidelines. Following that process recommendations to adjust terminology will be presented as a separate set. The FOIWG believes through this method the goal of consistent terminology will be achieved in a coherent and uniform manner across all substantive topics it will address.

The GAC urges the FOIWG to clarify that the procedures drafted to implement the consent guidelines must be reviewed and approved by the ccNSO prior to being finalized. According to the its charter the working group will - following its last set of

recommendations - submit to the GAC and the ccNSO a Final Report which will also include an overview of the methods and associated time-frames to be used by the ccNSO Council to monitor and evaluate the use and implementation of all recommendations. It would seem appropriate for the FOIWG in the context of its Final Report recommend that the IANA function manager seek approval from the ccNSO for its proposed implementation of the recommendations prior to implementing these.