ICANN Business Constituency (BC) Comment on

[Proposed Updates to the Operating Standards for Specific Reviews](#)

17-Feb-2025

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 BC 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; and

     3. Is technically stable, secure and reliable.

General Comment:

The BC is concerned that these improvement recommendations are driven mainly by ICANN staff. It may well be that staff have taken community comments on-board. Even so, we recommend that staff host a webinar or in-person session in Seattle to let community members air concerns and suggestions – before issuing a final staff report on the updates to standards for Specific Reviews.

The BC raised that and other scope concerns in our **[2018 Comment on Proposed Operating Standards for ICANN's Specific Reviews](#),** including:

> "ICANN's Bylaws Section 4.6 already describes the scope for each of the Specific Reviews. Once assembled, the Specific Review Team should define the scope of the present review consistent with the Bylaws. Separating the scoping responsibilities from the designated review team would result in a cumbersome process, given that the actual review team will need to keep revisiting the thinking behind the scope drafting team's recommendations.

> The Scope Drafting team is an unwelcome and unnecessary complication. Moreover, this would give the Board new powers to reject the scope established by the Scope Drafting Team.

> To be clear, the BC believes that scoping is an important function of the Specific Review Team. To the extent the Board believes that the scope is not consistent with the Bylaws, the Board can request further review and/or clarification from the Specific Review Team.   In that event, however, the AC/SO leaders have authority to determine whether the review team is acting consistent with the ICANN bylaws, and can thereupon authorize the review to proceed."

Specific Responses:

Section 2 - Initialization and Planning (New Section): This section reflects a proposed process improvement to transition the development of a Specific Review's focus areas from the review team during the Conducting the Review Phase to the wider community during the Initialization and Planning Phase. Targeted Outcomes:

- Community alignment on the focus areas for a Review before it is initiated
- Targeted solicitation of volunteers with skill sets specific to a Review's established focus areas
- More robust project planning for known work, including required resources and milestone scheduling
- Greater community understanding of upcoming Review work and timing

See pages 3-5 of the Updated Draft. Pages 1-2 of the Outline summarize what has changed from the current version.

(_) Support proposed updates
(_) Support proposed updates with changes
(X) Do not support proposed updates
(_) No opinion

 If you support the updates but think they require changes, please provide your reason here.

> The BC suggests a correction in Section 2 (2.1) of the Updated Draft, on the statement "Review focus areas must be within the Bylaws mandated scope for a Review, as defined in Section 4.6 (b) of the Bylaws". This reference should probably cover 4.6 (b) through (e) to capture scope for all of the Specific Reviews.

 If you do not support the updates in the section, please provide your reason here.

> Section 2.1 as described in the Updated Draft defers to the ICANN Org and Board to determine scope of each specific review:
>> "ICANN org will develop potential Review focus areas, present them to Supporting Organization (SO) and Advisory Committee (AC) leaders, and open a Public Comment proceeding to solicit community input. Following the closure of the proceeding, ICANN org will draft a summary report on the comments received and refine the focus areas in response to community input. The focus areas (updated as appropriate) will be presented to the Board to inform its decision to initiate the Review."
>
> The BC **opposes** this change. We note that the Bylaws sections for each Specific Reviews state that "**The Board shall cause a periodic review of …** ". We see that as obligating the Board to see that the Specific Reviews occur. We do not see the Bylaws as conferring total control over scope to the ICANN Board and Org. For example, the proposed standard would allow Board and Org to

block review from including a relevant topic in scope that might surface criticism of Org or Board actions and policies.

Section 2.3 as described in the Outline:

> "ICANN org would develop a project plan using the Review focus areas to allow for thorough planning. This would include a defined project purpose, objectives, and deliverables; a resource plan; and a project timeline with milestones. ICANN org would draft a Terms of Reference to outline a review team's approach to work, roles and responsibilities, operating procedures, and a communication and engagement plan, based on the project plan for the Review.Both the project plan and the Terms of Reference would be shared with the SO/ACs and ICANN Board."

> The BC **objects** to this change, since it implies that SO/ACs (the Community) is forced to accept whatever Terms of Reference the Board and Org have determined. Instead, the review team that represents the SO/ACs should be permitted to revise the plans and terms developed by ICANN Org.

Section 3 - Review Team and Leadership Selection (Formerly "Planning Phase"): This section is updated to reflect proposed process improvements under which SO/ACs follow their own processes to solicit applicants and nominate candidates for the review team, and the SO/AC Chairs select review team leadership. Targeted Outcomes:
•   Streamlined selection of review team members and review leadership
•   SO/AC Chair alignment on qualified, representative review leadership
See pages 5-9 of the Updated Draft. Pages 2-3 of the Outline summarize what has changed from the current version.

(X) Support proposed updates
(_) Support proposed updates with changes
(_) Do not support proposed updates
(_) No opinion

If you support the updates but think they require changes, please provide your reason here.

> We are grateful that ICANN Staff is deferring to SO/ACs on volunteer recruitment and selection. As we said in our **2018 Comment on Proposed Operating Standards for ICANN's Specific Reviews**:

> > Establishing a practice of having Review Team membership composed of experienced members who have served in many areas of the community and new members who are eager to participate helps to strengthen the ICANN ecosystem. New members will learn

the process, bring fresh perspectives, balance the team, and subsequently bring their experience into further engagement within ICANN.

To provide a fully seated Review Team, SO/ACs should nominate their candidates at the time of selection. No SO/AC should be permitted to reserve their seats for selection of candidates at a later time. To ensure continuity on the RT it is imperative that all the team members are seated at the start of the RT to begin working together on Scope and Terms of Reference.

Section 4 - Conducting the Review: This section is updated to reflect proposed process improvements to facilitate clear research findings, well-supported problems/opportunities requiring action, and the production of informed recommendations that directly address the problems/opportunities requiring action. Additional updates include the use of a guided submission form for Public Comment proceedings, correspondence with the SO/AC Chairs prior to submission of the Final Report to the Board to ensure review work met expectations, and a Post-Review Survey to identify potential Specific Review improvement areas.   Targeted Outcomes:
•   A more efficient and effective process for conducting review work
•   More direct community input on the review team's Draft and Final Reports through
•   Determination of SO/AC Chair support of review work via correspondence
•   Continuous improvement of the Reviews process through the solicitation of input from the review team and SO/AC Chairs at the conclusion of a Review
See pages 9-18 of the Updated Draft. Pages 3-5 of the Outline summarize what has changed from the current version.

(_) Support proposed updates
(X) Support proposed updates with changes
(_) Do not support proposed updates
(_) No opinion

 If you support the updates but think they require changes, please provide your reason here.

We believe the following points in Section 4 may impair the transparency, predictability, and efficiency of the work of the review team.
●   The review process may be lacking details in the event of circumstances unforeseen by ICANN Org or the review team. We believe such cases might require the team to re-examine and revise its recommendations. Few examples of such cases are:
        a.   ICANN Org finds a Preliminary Recommendations infeasible after a public comment proceeding and a secondary Feasibility Assessment (Section 4.6)
        b.   Review Work may entail research and analysis according to Section 4.3. In some cases, findings of a research may change the premises or the requirements of a research.

c. When there is lack of information or ICANN refuses to reveal requested information according to Section 6.1
● Section 4.5 suggests for community Public Comment proceedings to be limited to guided submission forms. The BC believes it would be important for the community to be able to follow their own structure to form their Public Comments and not be limited to guided submission forms.

Section 5 - Board Consideration (Formerly Review Output and Board Consideration): This section is updated to reflect proposed process improvements to streamline the Board's consideration of the review team's Final Report. Targeted Outcomes:

• Better informed Board decisions on recommendations through Feasibility Assessments with Final Report
• Faster Board decisions on the review team's Final Report

See page 19 of the Updated Draft. Page 5 of the Outline summarizes what has changed from the current version.

(X) Support proposed updates
(_) Support proposed updates with changes
(_) Do not support proposed updates
(_) No opinion

If you support the updates but think they require changes, please provide your reason here.

If you do not support the updates in the section, please provide your reason here.

Section 6 - Specific Review Policies (New Section): This section provides greater clarity to existing policies, updates policies to reflect proposed process improvements, and consolidates all Specific Review policies into a single section. Additional updates were made in response to the ICANN-wide effort to secure its financial stability and sustainability and increased process efficiencies. Targeted Outcomes:

• More efficient use of ICANN funds enabled by more robust project planning
• Early identification and procurement of required independent experts
• Ability of the review team to conduct all of its work remotely

See pages 20-23 of the Updated Draft. Pages 5-6 of the Outline summarize what has changed from the current version.

(_) Support proposed updates
(X) Support proposed updates with changes
(_) Do not support proposed updates

If you support the updates but think they require changes, please provide your reason here.

> We believe the following points in Section 6 may impair the transparency, predictability, and efficiency of the work of the review team.
> - Section 6.1 (1) states that ICANN must provide a justification for any refusal to reveal requested information. We believe this statement gives the connotation that some requests for information may be denied by ICANN with justification, and needs to be re-stated clearly in those words.
> - We understand that Preliminary Recommendations may be made based on information disclosed to the review team as "Confidential" according to Section 6.1. We believe it would be difficult for the community to comment on Preliminary Recommendations that are based on information disclosed only to the review team and classified as "Confidential Information".

Section 7 - Amending the Operating Standards: This section is updated to focus future proposed amendments to the Operating Standards on addressing input received immediately following a Specific Review.

Targeted Outcome: Timely, targeted development of improvements to the Operating Standards

See page 24 of the Updated Draft. Page 6 of the Outline summarizes what has changed from the current version.

(X) Support proposed updates
(_) Support proposed updates with changes
(_) Do not support proposed updates
(_) No opinion

 If you support the updates but think they require changes, please provide your reason here.
 If you do not support the updates in the section, please provide your reason here.

Other Comments and Submission

Are there any other comments or issues you would like to raise pertaining to the proposed updates to the Operating Standards in general?

This comment was drafted by Steve DelBianco and Asteway Negash.
It was approved in accordance with our Charter.