ICANN75 | AGM – ccNSO: ccPDP3 Review Mechanism Work Group (1 of 2)
Sunday, September 18, 2022 – 13:15 to 14:30 KUL

SUSIE JOHNSON:	Hello and welcome to ccNSO ccPDP3 Review Mechanism Group. My name is Susie Johnson, and I am the remote participation manager for this session. Please note that this session is being recorded and is governed by the ICANN Expected Standards of Behavior. During this session, questions or comments submitted in chat will be read aloud if put in the proper form, as noted in the chat.
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	With that, I will hand the floor over to Stephen Deerhake.
STEPHEN DEERHAKE:	Thank you. For the record, I'm Stephen Deerhake, the Chair of the ccNSO Review Mechanism Working Group. I want to thank everyone for joining today's hybrid and remote meeting. As you know, we're tasked with developing the Review Mechanism as part of the PDP3 Charter.
	For the record, this is the September 18th 2022 edition of the working group. We have convened today in a hybrid format at ICANN75 in Kuala

Lumpur at 3:15 local time and an awful time of 5:15 UTC. For those participating remotely, particularly those who are participating either really late at night or early in the morning, I want to thank you guys for pitching up.

And as always, a big thanks to our incredible support staff. How they pull off the hybrid meeting format, which they did so well at ICANN74, is magic to me. But I want to thank everybody involved.

Just so you know, both Bart and Bernard will be joining us remotely today. They're both participating at really bad times to the day for them. Bart will be joining us late. He's got a conflict with the CSC meeting, but that's going to not take up much time, apparently. And when he's finished with that, he'll switch over and come to join us.

Lastly, if you're audio only, make yourself known so your attendance can be credited. As you may or may not know depending on how closely you looked at the schedule, we have two EPDP Working Group 3 Review Mechanism meeting scheduled this week. This is obviously the first one, and the second is scheduled during Block 5 on Tuesday, September 20th.

For those of you who do not measure the march of the sun across the sky in ICANN block time, Block 5 is scheduled from 08:30 to 09:30, I believe, which is 16:30 to 17:30 local time here at ICANN75. So the primary purpose of the second meeting later in the week is to assess the committee feedback to our proposal to date on both the community update session where we're presenting being held in Block 1 on

Tuesday and then also the joint ccNSO-GAC session which is being held during Block 3 also on Tuesday.

With regards to administrative items, as you can see—thank you, Kim, for putting that up—I don't have any administrative items. I don't think I overlooked anything, but Bernard or Kimberly, if I have—or Joke—let me know. I'm not hearing anything. I'll assume not.

Once again, as I have over the last year or so, I bring to this group an update on the Board's consideration of her sister working group's Retirement Policy. So I know that we're just either before or just after one year of waiting for the Board to consider the policy since it was formally submitted to them.

That being said, I do have some good news at least. Consideration of the Retirement Policy is on the Board's agenda for their meeting later this week. So stay tuned. And if you can, I would encourage everyone to attend that, at least insofar as through the point where they either give it a thumbs up or thumbs down on that.

So the plan for today, so you can see from the agenda, we're going to begin to review the actual policy language that's being developed by Bernard from our work to date with our Review Mechanisms document and the related stress testing that we carried out.

We will also have an AOB item today as well. You will recall that during our last Zoom, we achieved consensus on both the Scenarios document and the Review Mechanisms document. And the current scribing process to tweak the language of the Review Mechanisms document into a more formal policy document which is incorporating the detail of

the scenarios into an appendix and a few other things in another appendix along with some other stuff in there.

As this is being scribed from the work we've done to date into what looks like the final policy language, there will be no substantive tweaks to the intent of what we arrived at via consensus today. Bernard does have a rough and incomplete draft which he's ready to present to us today. I'd like people to focus on the proposed structure of the document.

And secondarily, on the text that is available in some of the sections, not all sections have texts. But I think it's a useful exercise to look at the table of contents basically and go, "Does this make sense what we're doing here?"

My hope is that we can get this flushed out and get us as a working group to review it as quickly as possible so we can push it out for public comment as soon as possible, and certainly before the holiday season when things shut down to the end of the year. So we'd like to get that out before then. It's a long public comment period.

Having said all of that, Bernard, first of all I want to thank you for being available at this ungodly hour. Thank you for that. And second, the floor is yours, sir. Bernie, I hope you're there. Excellent.

BERNARD TURCOTTE: I hope so, too.

STEPHEN DEERHAKE: Good morning, sir.

BERNARD TURCOTTE: Yes. Good very early morning. All right, thank you very much for that, Stephen. Hi, everyone. Nice to be here. As Stephen has said, this is really a rough cut that we put together over the last 48 hours. So the exact content, not all sections are filled in. And the exact content is really a first blush, trying to get this down.

So we have one new thing. We did receive several comments that the independent advice mechanism review (IAR) was causing grief to a lot of people. And we sort of understood that and we're trying something new here. So instead of independent advice review, we're going to try to go with CCRM, which I think fits nicely with what we've got which is the ccTLD Review Mechanism.

So this is the official document that's based on all of the other documents that we've created and have been adopted. So there should be no surprises here beyond the format. All right, let's have a look. Next page. Next page. We won't spend a lot of time on that because it's not finished.

All right, Background and Introduction. I will not ... As Stephen has said, I'm not going to go into the details of every single section. This is the historical stuff where this started in 2015 and what we've done since then. I haven't finished tweaking this section for our group. This is based on the retirement group, but basically just lays out where we came from and how we got to a policy. Keep going, keep going, keep going.

Okay, next we have an introduction which I have not cobbled together yet. And then the Policy Objective. Now if you haven't been following this, we have the notion of developing a Review Mechanism for IFO decisions that would meet most of the requirements of the ccPDP RM Working Group for an independent review except for being binding on ICANN.

Additionally, the policy has the following objectives: low cost, fast, and minimize the total time required to review any specific IFO decision. Such a mechanism would be a logical independent step following the IFO Customer Service Complaint Resolution Process and is available before launching a court proceeding.

So a slight mismatch of—I should say miss-mash. Not a mismatch, but a miss-mash—of elements from our previous document, but there's really not a lot of new stuff there.

Section 3, Applicability of the Policy. We started looking at what processes are going to be subject to the CCRM. And that would be delegations of new ccTLDs, transfers, revocations, refusal to grant an extension on a retirement, and notice of retirement for a two-letter Latin ccTLD which does not correspond to an ISO 3166-1 alpha-2 code element per the ccNSO Retirement Policy. What we in the community used to call exceptionally reserved codes, such as EU, etc., any other policy developed by the ccNSO as the catch-all in case we go anywhere. Again, nothing new here.

Next, we go into Review Mechanism for IFO decisions, the CCRM. 4.1, possible findings. The CC will report on whether—next page, please—

there were significant issues with the IFO properly following its procedures and applying these fairly in arriving at its decision or there were significant issues in how the IFO complied with RFC 1591, the ccNSO FOI for 1591 as adopted by the ICANN Board or any other policies developed through the ccNSO policy development process and adopted by the ICANN Board in making its decision. So you can see where we're starting to narrow down and focus on the various things.

Next, we go into a very short process overview which is basically that the IFO makes a decision. The ccTLD manager requests a review. Reviewers complete the review. If there are no significant issues, the review process is concluded. If there were significant issues, the IFO has three choices.

The IFO can accept the results and adjust its decision. This would conclude the review process.

The IFO accepts the results but opts to redo the process which resulted in the original decision. Now, some people may wonder why do we do this. Well, the main reason to do this is if there was an issue which was discovered by the review which the IFO does not believe will change the results of its decision if it were corrected ...

So in that kind of a situation, we thought it made sense to allow the IFO to redo this thing and correct it. And once they redo that, the manager can accept the new results which will complete the review process; or if the manager believes there's still an issue, they can request a review of this new decision. If there is a request for a review of this new decision, we're not going to get into a loop. This is the last time you can request

a review. And then at that point, the IFO will only have two choices, which is to accept the results of the review or reject them.

And finally, the third choice for the IFO on the initial loop is that the IFO rejects the results. If the IFO decision requires Board approval, the IFO shall include the findings from the review in its recommendation to the Board for confirmation.

So basically, all of the work of the reviewers and the issue that they have will have to be part of the Board package. If the IFO decision does not require Board approval, the ICANN and the ccNSO Council shall be advised of the situation.

So for those that have been with us for the last couple of years, we've really squinched this down to try and make it digestible and to the point.

I'll pause here for a second and see if we have any questions.

STEPHEN DEERHAKE: I'm not seeing any in the room.

BERNARD TURCOTTE: All right. Thank you, Stephen. Section 4.3. So after we describe what it is, the CCRM can decide if there were issues. We look at the process then we look at the CRM manager.

In the final document—this is a cut and paste from our previous document—we may actually squinch this one down, too, as we did the process. But for the moment, what we've got is the description that we

had in our document. And I'm not going to go through all of that. Next section. Let's keep going down, please.

I don't know who's driving this. Is it Kimberly?

KIMBERLY CARLSON: Yes.

BERNARD TURCOTTE: All right. Thank you, Kimberly. So I can refer to someone. All right, so standard stuff from the CCRM manager. We'll pause there. Actually, can you go back a second? Up to the title of that slide. So this was another comment when we closed off the other document. This responsibility was supposed to be handed to what we called an administrator. A lot of people felt that was really not capturing the intent here, so after …

But then the suggestion was to call it manager. But then we have ccTLD manager, and often we refer to ccTLD managers as just "the manager." And I thought it would be confusing just calling this "the manager." So basically, in a link to what we proposed earlier, we're calling it the CCRM manager so that there's no confusion that can be made between the ccTLD manager and the CCRM manager. And so whenever we're talking about the CCRM manager, we will use CCRM manager. And when we're talking about ccTLD managers, we can refer to it as ccTLD manager or just the manager.

All right, let's just keep going through that to the next section. All right, so we've got what we can decide on in Section 4.1. We've got to look at

the process and we've got to look at what the CCRM manager should do to run the process.

So now it's time to look at the applicant and claimant to the CCRM. And again, basically a cut and paste from a previous document which may also be edited for this final version. And certain sections of this may be sent down to an annex.

But basically, this is the major section where we talk about how you're going to apply, who's eligible, what are the various things, including the things we finished fixing at our last few meetings which include the fact that if there has been a previous decision or if there is an ongoing other review. Because, as we know, there are other possibilities which include the IFO's internal review process and the IFO mediation process.

So basically, we've got in there that text that we agreed to that says if those other processes have been applied for or are ongoing, basically the clock has stopped on your deadline to apply for a CCRM review.

All right, let's keep … Actually, I'll pause there for a second and give people a chance to catch up and see if there are any questions.

STEPHEN DEERHAKE: None in the room, Bernie.

BERNARD TURCOTTE: All right. And I'm not seeing anything in the list of participants. Excellent. So let's go to the next section, please.

The reviewers. Again, same deal. All reviewers will be certified, managed, and supported by the CCRM manager. Reviewers will be paid by ICANN IFO, and the certification requirements and all of the rest of the details about how we work with this.

Again, copy/paste from our previous documents. Got to sit down and really look at that to see if all of those details are necessary or if we can move some of that into an annex. But you're getting the idea of how we're proposing to flow the information in the document.

Not seeing any questions. Let's move to the next section.

The IFO. Which is the participant in here, basically, talking about responsibilities of the IFO and how that would work versus the CCRM.

Taking another pause here to see if there are any questions. Doesn't look like it. All right, let's keep going.

That's about it. Oversight. That has not been fixed. We've actually got to go through that and figure out if this will hold. This is the original text from the Retirement Policy. I don't know if it's going to survive in its current state or not, but we've left it there for now.

Section 6, stress testing. We've got our definition of stress testing and what the outcomes are. And in 6.2 we've got identified situations where adjustment and additional work may be needed. You'll remember by the time we finished going through our scenarios to check stress tests. Really, by the time we had finished, there was nothing serious that needed to be fixed. There were a few minor tweaks as we went through

it, but I didn't think they were significant enough so that they would make it here.

So basically, that'll look like that. And then we've got everything about our stress test document that we accepted in an annex to this document.

Process to Date is exactly what it says. We will lay out here the work, sort of a brief historical recap of how the group has worked on this and what has happened so that as people look at this policy document, they understand fully that it has been an effort by the full group, that we have worked at it for some time. It will include, of course, that there will have been a public consultation, or at least one.

We'll see what the results are, etc., and how we got to the end of the process to make this our document which we will recommend to the ccNSO Council to send to the ICANN Board for approval. And we will look forward to it not taking as long as the retirement group.

References. Again, this is copy/paste from the retirement document. We'll have to update that. There were a lot of things in there which are standard. We're referring to RFC 1591, the FOI, etc. So I've left these things here because they seem to make sense, but we've got to finish going through them.

All right, let's get going. So our first annex would be process details. This is what we had in the original document. That is the exhaustive, step-by-step, everything that can happen in a review. And again, we're not going to go through that. That is a copy/paste from that document that has not been altered. Let's go to the next annex.

Annex B, the results of the stress test. Right now we've just got it in the form of the documents. So that's a copy/paste from the final version of our stress test document which is accepted. We've got to turn that into a table, as is the usual standard for these things. And we'll be doing that, but we've included it for information at this point. Next annex, and then we're racing towards the end here with the pretty standard things at the end.

Obviously not Annex B. There was a terminology, as you can see my comment in there. "Uncertain we're going to need it in this case." In the case of the retirement group, we really needed it here. Really uncertain, but we will see when we complete the document. That's the decision you make as you advance in a final version of the document. Next section, please, Kimberly.

All right. Of course, this is not a surprise here. This is where we're going to have the details of the community comments on the interim paper that we are talking about here. So when we send this out for public comment, this is where we're going to put that in. And of course, then that will influence, depending on the results of that, any adjustments to the work that we did up until now and will be included in our process segment of this document. Next section, please, Kimberly.

Standard stuff, contributors. Missed that one. So [it's] not the Retirement Working Group. Of course, it will be updated to read "the ccPDP-RM Working Group" instead of "the Retirement Working Group." And we'll have the usual people who are participants listed in there.

And I think that's it, Kimberly. Anything hiding in the bottom there? Nope? That's it. So, a very quick walkthrough of this. As Stephen has said, we're really looking for more generic comments on the layout of this as it goes forward. And I'll be glad to take any comments or questions.

Back to you, Steve.

STEPHEN DEERHAKE: Thank you, Bernard. Appreciate it. And again, thanks for staying up in the middle of the night, your time. Does anybody have any questions or comments or thoughts as to, is this the appropriate way to proceed? Or do you think there's some other approach here? Both in the room and certainly the remote participants.

I don't see any comments here in the room, Bernard, but I do not know if there's any question. Oh, there's a chat, it looks like. Now, apparently, there's not in the chat either. So I think your portion of this is concluded. So I thank you for that.

We're not going to take our full allotted time today, obviously. So I'll be able to give you back some of your time. I was hoping … If we can get the agenda displayed again. Thank you, Kimberly. Obviously, what Bernard's just presented is certainly not a first reading, it won't, we won't have a first reading of the final tax for probably two more meetings, is my guess. As I mentioned at the outset, we are trying to push this forward as quickly as we can to get it out in a public comment period as quickly as we can. We want it out, ideally, before the beginning of the holiday season. Because once we get into a holiday

season, it'll push it out well into next year. If we don't start it until next year, we'd like to move it along and not repeat the Retirement Policy approach.

Under AOB, as I mentioned at the outset, we do have an item. I was hoping that Bart would be available to present because he's a subject expert on all of this. But apparently he is having too much fun in the CSC meeting which is running at the same time as ours. So I do not see him in the list of attendees. And I think if he were here, he would pitch up and say so.

So what he was going to talk about, basically, was the mechanics of once we get the policy language nailed down—the actual policy document—how it gets put out the public comment. And about the only thing I can contribute to that is that it's apparently a fairly straightforward process—something ICANN staff does. And the comment period will run at least 40 days. And that's one of the reasons we want to get it out as quickly as we can.

And then after that, staff will look and review and categorize all of the comments and produce the summary which we will then get. And depending on what we get there, we may have to go back and tweak it some more. But we'll certainly have to have a meeting to discuss the comments at the very minimum. So that's about all I can contribute to the actual mechanics and process of the public comment period.

So if I can move on to next meetings, as you know, we typically run in a two-week cycle. But after an ICANN meeting, because of staff and working group member exhaustion, we skip a couple of weeks. So I

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don't have the exact date off the top of my head, but it will be the Wednesday, two weeks after the conclusion of the ICANN meeting on Friday of this week. So you guys can—

KIMBERLY CARLSON: Stephen?

STEPHEN DEERHAKE: Yes? Thank you Kimberly.

KIMBERLY CARLSON: Can I propose the 12th of October?

STEPHEN DEERHAKE: That works for me. Does that work for the group in the room? Not seeing anybody objecting.

EBERHARD LISSE: Would objection help?

STEPHEN DEERHAKE: We'd consider it, yeah. And I don't think there's anything remote. But again, I'm not looking at the chat.

BERNARD TURCOTTE: Stephen.

STEPHEN DEERHAKE:	Yes, sir?

BERNARD TURCOTTE: If I look at the calendar, the meeting concludes, technically, the 23rd of September. So if that's the case, then two Wednesdays after that would take it to the 5th instead of the 12th.

STEPHEN DEERHAKE: Anybody have—

BERNARD TURCOTTE: Am I correct?

STEPHEN DEERHAKE: I believe you—

BERNARD TURCOTTE: Am I correct, Kimberly? Because that would be a three-week gap if we were going to go to for the 12th. And we are really trying to work at getting this out ASAP into the public sphere.

STEPHEN DEERHAKE: So the new date proposed is the 5th. Is there anybody who has an issue with that as opposed to the 12th? Not seeing hands in the room here, Bernie.

EBERHARD LISSE:	Sorry. That means we would not have an interval. We'd continue straight two weeks after the meeting.
BERNARD TURCOTTE:	That is correct.
EBERHARD LISSE:	But we wanted to have a bit of an interval. Didn't we?
STEPHEN DEERHAKE:	Well, if we can ... I'm cognizant of staff. Why don't we tentatively say the 5th but we'll think about the 12th. Peter? We'll have the 12th as a fallback, is my current thinking on this. But it's not cast in stone, the 5th. Let's put it that way. Anybody object to that approach? Preliminarily, the 5th. If staff is still recovering from this week, then we can push it back a week.
BERNARD TURCOTTE:	We'll figure it out by the end of the week.
STEPHEN DEERHAKE:	Yeah, we'll get this sorted on that. It's hard to do this with both Bernard and Bart far, far away and in very different time zones because they are having to stay up all night all week. And, you know, they will be completely fried by Thursday.
	Is that it? I think that's about it for us. As I said, you're going to get some time back. So without further ado, I want to thank everybody both in the room and remotely for participating.

And with that, I will again adjourn the meeting. Thanks staff, particularly the guys in the back of the room who just make the magic happen on the technical end.

Eberhard.

EBERHARD LISSE: Just a question. Our follow-up meeting is scheduled on the screen for Tuesday, but we do it on Thursday. Isn't it? On Tuesday we have the Community Consultation and to GAC. And then we have one follow-up meeting which I understood and, on my calendar, have it for Thursday. I just wanted to make sure that we ...

KIMBERLY CARLSON: Eberhard, it is scheduled for Tuesday.

EBERHARD LISSE: It is scheduled for Tuesday?

KIMBERLY CARLSON: Correct.

EBERHARD LISSE: Okay. Then I need a new calendar. Okay, thank you.

STEPHEN DEERHAKE: Yeah. It's scheduled as soon as we've finished all of the ccNSO stuff, when we can do the review as freshly as possible.

Barring any further questions, I wish you guys all a productive week and good eating because the food's incredible. And with that, I'm going to adjourn the meeting and thank everyone again. The recording can be stopped. Thank you.

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