

CENTR inputs to the ccNSO process

General consideration

CENTR members recognise the importance of the ccNSO as a lightweight all-inclusive forum where general ccTLD issues should be examined and developed.

The ccNSO should primarily be a forum for information exchange and discussion of best practices, not for developing policies binding on the participants. Binding policy should only be made in relation to the issues within a limited scope, if at all.

For such issues for which a binding policy is desirable, all policies which affect or concern members of the ccNSO and are intended to be binding must be developed through the ccNSO, no matter where they originate. The ICANN Board must not have power to set policies that impact ccTLDs without the approval of the ccNSO.

Most policy issues which relate to ccTLDs are local and therefore there is a presumption that policy is addressed by each ccTLD registry in consultation with its Local Internet Community (including any relevant government or other public authority).

Those wishing to propose a ccTLD policy within the ICANN framework should have to prove necessity for global policy making in the specific case and that the issue is within the defined scope of the ccNSO.

CENTR members have previously applauded and agreed *“the strong endorsement of the subsidiarity principle and the recognition of the role of the local Internet community in developing policy at a local level.”*¹

In the spirit of developing a structure that can include all of the ccTLD managers, CENTR members would like to express some concerns to ICANN.

CENTR members believe that to be a successful tool for the ccTLD community, it is a fundamental principle that the ccNSO needs to be all-inclusive and broadly representative. Therefore, it is imperative and also in ICANN’s best interest to design the ccNSO in such a way that as many ccTLDs as possible can (and will) join.

The main purpose of this paper is to further develop the path of constructive dialogue which we have held with ICANN, with a view to increased collaboration and cooperation toward making the Internet infrastructure more robust and reliable.

¹ CENTR response to revised GAC principles for ccTLD managers, 24 January 2005

Structure and scope

The ccNSO should be a well-structured entity, with an internal organisational structure aimed to develop its functions and implement its actions. Members should decide fee structures, operational procedures and, most importantly, ccNSO policies.

The ccNSO should have a limited, well-defined scope: making policy for the operation of the IANA function as it relates to ccTLDs. This may comprise IANA procedures (including those related to IANA in the event of a registry change), and fees to IANA.

The present scope is too wide and lacks clarity in many aspects.

Therefore, CENTR suggests the following points be made more explicit:

- Delineation of the areas to be the subject of global binding policy;
- Considering that most policy issues are local, a clear requirement that development of any global policy within the ICANN framework needs to rebut the presumption required by subsidiarity that policies for ccTLDs are a matter for the Local Internet Community, and demonstrate the inclusion in the scope of the ccNSO (as the Governmental Advisory Committee has proposed).

Furthermore, the principles of subsidiarity and proportionality should be highlighted and any proposal for global policies must take this into account.

It should be clear that global policies agreed by the ccNSO cannot bind non-members of the ccNSO.

Procedures

The ccNSO policy making procedure should be transparent and safe.

We understand that some of the more complex procedures are intended to keep the policy-making procedure from being captured. We are unsure as to how effectively that has been achieved by such rule-making complexity.

CENTR Members assert that a robust and secure procedure can be found with simpler bylaws, and that a system of complex bylaws can be a problem in and of itself.

Therefore, we believe that once a larger number of ccTLDs has joined the ccNSO simplifying the ccPDP would be a task worth pursuing.

Several concerns attach to the role of binding policies developed through the ccNSO.

There should be a presumption that ccNSO policies that have properly completed the Policy Development Process would only be rejected by the ICANN board in very exceptional circumstances.

CENTR would like to propose to add the following amendments:

- ccNSO policy recommendations to the ICANN board can only be passed if a quorum of 50% of the ccNSO members is met (whereas under the current bylaws such a quorum need not be met in a possible second round of voting).

- The ICANN Board cannot amend the ccNSO related parts of the ICANN bylaws without the explicit consent of the ccNSO, expressed by a two-thirds majority of ccNSO members.
- Global policies may only be binding on ccNSO members or ICANN if they have been developed through the ccPDP, recommended by the ccNSO, and are within the ccNSO scope, and the Board may not adopt any policies intended to be binding unless these conditions apply.

ICANN should set out clearly what enforcement procedures, if any, it will apply where a ccNSO member does not comply with a duly adopted global binding policy.

Conclusion

CENTR members fully endorse the creation of a body that can convene the ccTLDs community at international level, a forum for exchanging ideas which can make the voice of the diverse ccTLDs adequately represented at ICANN level.

To respect subsidiarity, ICANN and the ccNSO should also develop their activities in the light of the principles of proportionality and necessity.

CENTR supports the creation of the ccNSO and believes it can be turned into the truly inclusive organisation that the global ccTLD community has been working for over the last five years.