
Public Comment Summary Report

Initial Report on the Second CSC Effectiveness Review

Open for Submissions Date:
Wednesday, 14 September 2022

Closed for Submissions Date:
Thursday, 01 December 2022 (Extended from Tuesday, 08 November 2022)

Summary Report Due Date:
Thursday, 15 December 2022 (Published on Tuesday, 20 December 2022)

Category: Reviews

Requester: Review Team

ICANN org Contact(s): bart.boswinkel@icann.org

Open Proceeding Link:
<https://www.icann.org/en/public-comment/proceeding/initial-report-on-the-second-csc-effectiveness-review-14-09-2022>

Outcome:
The Customer Standing Committee Effectiveness Review Team (hereafter: Review Team) received eight submissions, six from community groups, of which one was accepted after closure of the comment submission period. One (1) was from an external organization, and one (1) from an individual. In their comment the submitters covered 8 topics. The comments are categorized into three categories of comments: general, specific, and not related to the Effectiveness Review.

This Public Comment summary report only includes the ICANN org staff summary of the comments. The Review Team will review the comments and consider whether to amend its findings and recommendations.

Section 1: What We Received Input On

The Review Team sought input on its findings and recommendations (sections 4 and 5 of the Initial Report). Section 4 contained the findings and recommendations pertaining to the effectiveness of the Customer Standing Committee (CSC) in performing its tasks as listed in the CSC charter and whether the CSC has implemented the recommendations of the first CSC Effectiveness Review. In Section 5 of the Initial Report, the Team presented its findings and recommendations on seven additional topics which were identified, and which could impact the future effectiveness of the CSC.

Section 2: Submissions

Organizations and Groups:		
Name	Submitted by	Initials
NIC United Kingdom of Great Britain and Northern Ireland (UKGBNI)	Andrew Hallfamn	UKGBNI
Country Code Names Supporting Organization	Alejandra Reynoso	ccNSO
Customer Standing Committee	Brett Carr	CSC
Registry Stakeholder Group	Unknown	RySG
At-Large Advisory Committee (ALAC)	Unknown	ALAC

Individuals:		
Name	Affiliation (if provided)	Initials
Bolutife Adisa	Unknown	BA

Section 2a: Late Submissions

At its discretion, ICANN org accepted the following late submission, which have been appended to this summary report. (Annex A).

Organizations and Groups:		
Name	Submitted by	Initials
Cross-Community Working Party on ICANN and Human Rights (CCWP-HR)	Ephraim Kenyanito	CCWP-HR

Section 3: Summary of Submissions

General Comments

The ALAC, ccNSO Council, CCWP-HR, CSC and RySG, generally expressed their support for the findings and recommendations of the review team. However, each group provided some specific comments, which are summarized below in the specific comments section.

In addition, and as general comment, the ccNSO supports the conclusion that the CSC operates effectively. The ccNSO welcomes that the CSC has an excellent working relationship with Public Technical Identifiers (PTI) and expects that this working relationship will continue in the future. The ccNSO supports the conclusion that the limited role and remit of the CSC should not be expanded.

Specific Comments

On the recommendation of appointment of alternates:

BA commented that the appointing organizations should ensure a requirement that addresses the time zone difference while selecting an alternate for the CSC appointees.

ALAC supports the appointment of an alternate by each SO/AC for their member/liaison of the CSC. The alternate should be given access to all information which a CSC member/liaison receives and be invited to attend to CSC meetings (in an observer role if need be).

The CSC notes that it is a very small committee and members are geographically located across the world. As a result, meeting times are always "inconvenient for someone". The CSC rotates its meeting times to equal out the inconvenience, however the rotation does not resolve the issue of the required attendance rate. In the view of the CSC, appointing alternates for the committee will effectively mitigate this problem.

The ccNSO supports the recommendation that the CSC appointing organisations appoint alternates. However, alternates should be informed timely that a regularly appointed member or liaisons will not be able to attend and must be kept abreast of the discussions in the CSC.

On the development of framework to review SLAs:

ALAC supports the development of such a framework.

The RySG agrees that a regular review of the SLAs would be appropriate. However, they note that the need to "develop a framework" for such a review be too overly process-oriented, given the quality of the current "Process for Amending IANA Naming Service Level Agreements". This current process for amendment has sufficient involvement of direct customers such that cross-SLA impacts would be accounted for during an amendment process. The RySG suggests that in the Final Report the Review Team's recommendation is removed that first a new Framework needs to be developed for regular SLA reviews.

The CSC has consulted with PTI and other bodies regarding the need to periodically review these SLAs to ensure that they remain relevant and covering IANA's activities in the area of the naming function, but there has been little guidance in existing process documents on how this would be initiated and conducted. The CSC welcomes the Review Team's recommendation that such periodic reviews be undertaken and initiated by the CSC in close cooperation with PTI.

The ccNSO believes strongly that IANA Naming Function SLAs should be reviewed now and then to ensure longer-term trust in the model. The SLAs should remain relevant, up-to date and adequate and be used as a mechanism to avoid the emergence of issues, which could have

been avoided if the SLAs were up to date. The ccNSO also supports the development of a SLA Review Framework, which needs to be supported by the direct customers to ensure that direct customers are informed and involved in such a review process. The ccNSO suggests that such a review should be done at most once every five years after the results of the previous review have been implemented or if circumstances (to be determined by PTI and CSC) do require such a review.

The CCWG-HR suggests the adoption of a holistic approach in interpreting SLA obligations to ensure that IANA works with registries and registrars to ensure that all IETF RFCs applicable to DNS operations are implemented in order to ensure robust DNS server operations. Such an approach of amendments to the SLA would assist to ensure that IANA and its direct customers operate their systems in a manner focused on the registrant and do not act in any way that indirectly harms registrant through any act or omission.

On the selection of the chair and vice-chair of the CSC:

ALAC supports the current practice that preferably the chair of the CSC should be a RySG or ccNSO appointed member, however if no CSC member is available, a CSC liaison with direct knowledge of the role and processes of the CSC, may fill the role of chair.

On the frequency of meetings and meeting attendance:

ALAC supports the existing arrangements for monthly meetings. However, if a meeting is canceled, the reports on the PTI performance should still be circulated monthly and if any concerns with the report, a meeting should be called for to address those concerns.

The RySG stated that it does not understand the rationale for the recommendation related to the topic of frequency of meetings. No indication is provided regarding the level of engagement of current CSC members, whether by email or in another way. Although issues related to meeting attendance are mentioned, no information is provided whether members who are not participating in the meetings are disengaged.

Relating to this topic, the RySG made the following recommendations:

- The next CSC Effectiveness Review should consider measures of CSC member engagement that are broader and more meaningful than meeting attendance.
- The CSC should be allowed more control over its meeting schedule to be able to change meeting frequency to every other month.
- The CSC should adjust its attendance rules so that under certain conditions a member or liaison can assign their proxy to the other member from the same appointing organization.
- Appointing organizations should be allowed, but not required to appoint Alternates for Members/Liaisons.

The ccNSO notes that according to the CSC Charter, members and liaisons are expected to attend at least nine (9) meetings in a one-year period, and the CSC is expected to meet every month. The ccNSO also notes that since its creation, the CSC meets on average meets ten (10) times a year. The ccNSO considers this requirement - to attend at least nine (9) meetings annually (= 90 % of the meetings) quite onerous, also in light of the rotating meeting times. The ccNSO suggests that - without amendment of the CSC Charter – the CSC and community interpret the attendance requirement to mean that members and liaisons are expected to attend 75 % of the meetings annually.

The ccNSO supports the recommendation that the number of meetings should not be reduced. Regular meetings ensure the cohesion of the CSC and maintain the working relationship between the CSC and PTI.

The ccNSO suggests that the CSC should regularly inform the relevant appointing organizations about the meeting attendance of their appointed members and liaisons

Attracting committee members with the right profile:

The CSC recognizes that attracting members & liaisons with right profile may and will continue to be an issue. The CSC will support efforts of the involved constituencies to attract and find appropriate candidates

The ccNSO agrees with the observation of the Review Team that the *“effectiveness and success of the CSC is to a great extent due to the quality, expertise and commitment of the membership of the CSC”*. The ccNSO notes the observation of a decreasing interest in becoming a member of or liaison to the CSC. However, from a ccNSO perspective the decreasing interest is not a general trend.

Comments not related to the effectiveness review of the CSC.
Scope of the CSC

The UKGBNI is of the opinion that the CSC does not seem to be of great importance to ICANN, as a number of consumer rights have been violated by abusive practices by ICANN, registries and registrars.

According to CCWP-HR the mandate of the CSC can be expanded in order for it to be responsive to needs of indirect customers and beneficiaries of IANA such as registrants and website visitors (and/or the community at large). The CCWP-HR provided a Human Rights Impact Analysis report that can be read in its entirety at (<https://icannhumanrights.net/wp-content/uploads/2019/10/Trial-HRIA-for-ICANN-PDPs-Final-Report-October-2019.pdf>).

Section 4: Analysis of Submissions

The review team will analyze the comments received.

Section 5: Next Steps

After analyses of the comments, the Review Team will update its initial report in areas it deems necessary taking into account the comments received. The Analyses of the comments received will be appended to the Final Report.

Human Rights Gap Analysis for ICANN's Initial Report on the Second CSC Effectiveness Review

Final Report

Ephraim Percy Kenyanito
Megan Kathure
Maryam Lee

November 2022

Acknowledgments

Many people helped with this project, and we are grateful to everyone who put in their time and effort to make it a success.

In particular, thanks to members of the Cross-Community Working Party on ICANN and Human Rights (CCWP-HR) and Non-Commercial Stakeholder Group (NCSG) for their contributions to early versions of the HRIA methodology and Non-Commercial Stakeholder Group Policy Committee and membership and various individual members for providing comments on earlier versions of the analysis.

About the CCWP-HR

The CCWP-HR is a multistakeholder forum currently chartered as a sub-entity of the Non-Commercial Stakeholder Group (NCSG) within the Generic Name Supporting Organisation (GNSO) but remains open to the rest of the Internet Corporation for Assigned Names and Numbers (ICANN) community for research and discussion on the relationship between human rights and global Domain Name System (DNS) coordination. This is related — but not limited — to policies, procedures, and operations, with a particular focus on ICANN's responsibility to respect human rights. The primary goal of the CCWP-HR is to provide information, facilitate dialogue, and make suggestions to ICANN Org, its Board of Directors, and the ICANN community on ways to better harmonize ICANN's policies and procedures with internationally recognized human rights laws and corporate social responsibility standards. Membership is open to any interested individual, regardless of affiliation.

About the Authors

Ephraim Percy Kenyanito is a lawyer and researcher at ARTICLE 19, where he works on censorship and business and human rights issues at the Internet infrastructure level. He is a Certified Project Management Professional (PMP), has co-chaired the CCWP-HR since June 2020, and is also an alumni member of ICANN's fellowship program, NextGen@ICANN Program, among other fellowship programs.

Megan Kathure is an attorney at law admitted as an advocate of the High Court of Kenya; a researcher and policy analyst on Data and Internet Governance, Technology law and Cybersecurity.

Maryam Lee has 10 years of experience in human rights advocacy, policy making, and capacity building to nurture a progressive society. She is trained as an educator and is passionate about development. She is currently working on business and human rights in digital spaces in an effort to harmonize human rights and technology.

Introduction

In September 2022, ICANN published the Initial Report on the Second Customer Standing Committee (CSC) Effectiveness Review, requesting feedback from the community.

We welcome ICANN's decision to release the document in its entirety, in line with Workstream 2 Recommendations on ICANN Transparency.

We note that the CSC was established on 1 October 2016 as an element of the IANA stewardship transition process with the main task of monitoring the performance of the IANA naming functions for the benefit of direct customers, in accordance with Section 17 of the ICANN Bylaws and the CSC Charter.

Our analysis shows that the recommendations are well drafted but we offer two additional recommendations which would improve the effectiveness of the CSC. First, we note that the mandate of the CSC can be expanded in order for it to be responsive to needs of indirect customers and beneficiaries of IANA such as registrants and website visitors (and/or the community at large) which will make IANA be in sync with the overall trajectory of ICANN under the 2016 IANA stewardship transition that has been aimed at making sure that all DNS policies being drafted aim to serve the community at large. Second, we welcome the recommendation which aim to make service level agreements current and relevant and highlight recent amendments to the SLA which would further make the Internet more secure and to an extent further ensure registries fulfill their various obligations under ICANN Bylaws and urge CSC to interpret the SLAs more holistically.

Scope of activities of the CSC

We welcome the report, but note that it poses an important question at the end: is the scope of activities still beneficial to the effectiveness of the CSC? In this submission, we respond to this question.

We note that the CSC serves as a consumer protection institution, as set out in the scope of responsibilities in its Charter. However, the scope of activities for the CSC is limited to interactions between IANA and its direct customers under Section 17 of the ICANN Bylaws, which states that the "CSC is not authorized to initiate a change in PTI through a Special [IANA Naming Function Review] IFR (as defined in Section 18.1) but may escalate a failure to correct an identified deficiency to the ccNSO and GNSO, which might then decide to take further action using consultation and escalation processes, which may include a Special IFR. The ccNSO and GNSO may address matters escalated by the CSC, pursuant to their operating rules and procedures."

Further, we note that Section 18 of ICANN Bylaws establishes IANA Naming Function Reviews which aim to assess PTI's performance of the IANA naming function against the contractual requirements set forth in the IANA Naming Function Contract. These IFRs would happen every 5 years whereby the ICANN Board would constitute a multistakeholder committee separate from CSC which

would, “recommend any amendments to the IANA Naming Function Contract and IANA Naming Function SOW to account for the needs of the direct customers of the naming services and/or the community at large;” (among other responsibilities).

The drafting of section 17 and 18 is ambiguous, as at section 17 it is limited to direct customers of IANA while section 18.3.c includes a review that would be escalated by CSC to the Board and the IFR would “recommend any amendments to the IANA Naming Function Contract and IANA Naming Function SOW to account for the needs of the direct customers of the naming services and/or the community at large;” (among other responsibilities). This thus makes it unclear how the community at large would raise their concerns regarding any actions of IANA that are not in compliance with ICANN Bylaws or that have an impact on them as “indirect customers” of IANA.

IANA has an indirect impact on indirect customers and beneficiaries, as the storage of data and interaction with internal and external stakeholders who would be required to gather, process, and store this data are necessary for IANA to perform its tasks. While not personally identifiable information in and of itself, this data can be used in conjunction with other information to infer generic personal information about Internet users, such as names, addresses, dates of birth, and IP addresses. To ensure that people's personal data is not compromised, IANA must ensure that its direct customers (registries and registrars) adopt best practices to minimise or prevent harm to indirect customers and beneficiaries.

Given that IANA is bound by ICANN Bylaws but under section 17 of ICANN Bylaws there is no clear escalation process from CSC to the IFR regarding whether IANA's actions or inactions in regards to the Bylaws have caused harm to direct or indirect IANA customers this revision would expand the scope of the CSC's activities to include an assessment of IANA's compliance with relevant ICANN Bylaws in relation to direct and indirect customers of the naming services, and this would ensure that CSC would then seamlessly transition any complaints to the IFR under Section 18 of the ICANN Bylaws.

Further, we can highlight that since the creation of the CSC in 2016, the ICANN Community and ICANN Board have gradually introduced new provisions of the ICANN Bylaws including Section 27.2 (on Human Rights) and revisions to other provisions to include language on consumer/ customer protection, such as through Sections 4.6 (on Specific Reviews). In these new provisions, ICANN itself has highlighted on the importance of ICANN working for the benefit of the Internet community, including registrants and has recognized the Human Rights Impact Assessment (HRIA) as ‘a process to identify and prioritize the impacts an organization has on human rights, to analyze how effectively these impacts are managed by the organization, and to develop actions for improvement, 'through the Framework Of Interpretation for Human Rights (FOI-HR)’¹.

1 CCWP- Human Rights Gap Analysis for ICANN's Proposed Amendments to the SLA for the IANA Numbering Services <<https://itp.cdn.icann.org/public-comment/proceeding/Proposed%20Amendments%20to%20the%20SLA%20for%20the%20IANA%20Numbering%20Services-13-09->

We thus recommend that the CSC role be expanded through Section 17 of ICANN Bylaws from the current scope of, “monitoring the performance of the IANA naming functions for the benefit of the direct customers” to be “monitoring the performance of the IANA naming functions for the benefit of the direct customers *and indirect customers such as registrants and its compliance with relevant ICANN Bylaws.*” This would be in line with the 2016 IANA transition process that aims to ensure that ICANN is fully accessible to every registrant and serves the interests of the community at large.

CSC and Service Level Agreements for the IANA Numbering Services

Secondly, we note that the report, “supports the view that a regular review of the SLAs (whatever regular means) would be appropriate to ensure that the SLAs remain current and relevant. Issues may emerge over time that require attention and a general review of the SLAs may help avoid circumstances that may emerge in the longer-term and maintain support and trust in the model.”

We also note that the Scope of Responsibilities of CSC in the Charter states, “The CSC is authorized to monitor the performance of the IANA naming function against agreed service level targets on a regular basis.”

We thus highlight that IANA, in a separate public comment process, has recently proposed amendments to the SLA for the IANA Numbering Services. [We note that](#) IANA has included the obligation that “[t]he Operator’s DNS server must run software which correctly implements all the applicable DNS IETF RFCs.” This is a welcome addition as it ensures that the SLAs remain current and relevant. We urge the CSC to adopt a wholistic approach in interpreting this SLA obligation to ensure that IANA works with registries and registrars to ensure that all IETF RFCs applicable to DNS operations are implemented in order to ensure robust DNS server operations.

We thus recommend that a wholistic interpretation of the new amendments to the SLA would assist to ensure that IANA and its direct customers operate their systems in a manner that is focused on the registrant and do not act in any way that indirectly harms registrant through any act or omission.

For example, we note that several IETF RFCs aim to protect human rights such as the right to privacy and freedom of expression, (these include RFCs such as 1543, 2223, 3552, 3365, 7258 which focus on protocol confidentiality, authentication, integrity and RFC 8280 which sets out guidelines for human rights considerations whereby designers, implementers, and users of Internet protocols are aware of human rights-related design choices. Similarly, IETF RFC 6973 sets out guidelines for privacy considerations and provides a framework

[2022/submissions/Cross-Community%20Working%20Party%20on%20ICANN%20and%20Human%20Rights%20\(CCWP-HR\)/CCWP-HR%20HRGA%20for%20Proposed%20Amendments%20to%20the%20SLA%20for%20the%20IANA%20Numbering%20Services-18-11-2022.pdf](https://www.icann.org/news/2022/submissions/Cross-Community%20Working%20Party%20on%20ICANN%20and%20Human%20Rights%20(CCWP-HR)/CCWP-HR%20HRGA%20for%20Proposed%20Amendments%20to%20the%20SLA%20for%20the%20IANA%20Numbering%20Services-18-11-2022.pdf)> accessed 7 October 2022

for ensuring that designers, implementers, and users of Internet protocols are aware of privacy-related design choices.

We thus welcome the recommendation by the CSC report for SLAs to be amended in order to remain relevant and current as we believe that these amendments to the SLAs would ensure that IANA operates in an effective manner and ensures that the DNS is robust and secure for both direct and indirect customers and beneficiaries of IANA..

Conclusion

CCWP-HR is grateful to have participated in this public comment process in accordance with the November 2019 ICANN Board approval of the FOI-HR.

We welcome feedback on any aspect of this initiative and extend an open invitation to any interested individuals to get involved in the next phase of work. To become a member of the Cross-Community Working Party on ICANN and Human Rights (CCWP-HR), visit [the CCWP-HR page](#) on the ICANN Community website.