

ANALYSIS-Phase II of Public Comments Process Enhancements

Public Comments Issue Tracking Checklist

COMMENT PERIOD

| | |
|-------------|-------------------|
| Open Date: | 31 August 2011 |
| Close Date: | 30 September 2011 |
| Close Time: | 23:59 UTC |

EXTENSION

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|---------------------------|-----------------|
| Extension (Yes or Blank): | Yes |
| New Close Date: | 15 October 2011 |
| New Close Time: | 23:59 UTC |

GENERAL INFORMATION & LINKS

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| Announcement & Comments: | http://www.icann.org/en/announcements/announcement-31aug11-en.htm |

EXECUTIVE SUMMARY

This section is intended to provide an overview of the results of the analysis and evaluation of comments received along with any final decisions, actions, and/or recommendations.

A total of 22 issues, suggestions, and recommendations were offered by the community and are documented in this Checklist. They are grouped into five categories as follows:

- Category A: Stratification
- Category B: Prioritization
- Category C: Comment/Reply Cycles & Timing
- Category D: Technical Forum Improvements
- Category E: Additional Suggestions/Recommendations

The following table shows the current disposition of the items by Status category:

| Status | Number of Issues |
|---------------------|------------------|
| Resolved | 6 |
| Under Review | 7 |
| Deferred/Postponed | 5 |
| Unknown | 3 |
| Needs Clarification | 1 |
| Total | 22 |

As unresolved items are evaluated, considered, and decided, the community will be updated accordingly.

Since this Checklist is a new experimental document, Staff would appreciate community feedback concerning its usefulness and the extent to which it satisfactorily addresses a perception that the Public Comments process has lacked accountability and transparency where specific community input is concerned.

Filiz Yilmaz
Sr. Director-Participation & Engagement

DETAILED ITEMIZATION OF ISSUES

Category A: Enhancement 1: Stratification

| No. | Issue/Suggestion/Recommendation | Status | Comments/Disposition |
|-----|--|----------|---|
| 1 | The proposed stratifications would only be useful to those community members intimately acquainted with ICANN policy and procedures. To help identify relevance and facilitate understanding to a wider audience, Staff should develop a set of broad/generic tags based upon issues and interests - not process or organizational ownership. Multiple tags should be assignable to any topic, as appropriate. | Resolved | <p>Staff has assimilated the various suggestions made by the Focus Group and this Public Comment Forum, eliminated duplicates, revised and simplified wording, and created the following proposed set of 16 categories. Modifications can be made after further experience and feedback:</p> <ul style="list-style-type: none"> • Top-Level Domains • Second-Level Domains • Internet Protocol Addressing • Internet Governance • Policy Processes • ICANN Board/Bylaws • Contracted Party Agreements • Intellectual Property • Transparency/Accountability • Security/Stability • Privacy • Reviews/Improvements • Participation • Events/Conferences • Legal/Regulatory • Operations-Finances <p><i>Note: multiple tags may be assigned to any topic.</i></p> |

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| 2 | Some mechanism should exist for items that are not anticipated. Adding an "other" category or a mechanism for revising the list would be useful. | Resolved | The internal process to add a new category or tag is straightforward should it be required for a particular topic; therefore, Staff does not perceive a need for an "other" grouping. |
| 3 | "Policy Development" and "Policy Implementation" can are very broad categories with lots of variations and can extend over many years. The difference between "Organizational Review & Improvements" and "Structural Design/Improvement" is not clear. "Infrastructure" instead of "Structural" would address the issue. | Resolved | See Category A, #1 for a revised set of 16 categories (or tags) that was developed to address these and other community concerns about the original proposed list. |

Category B: Enhancement 2: Prioritization

| No. | Issue/Suggestion/Recommendation | Status | Comments/Disposition |
|-----|---|--------------|---|
| 1 | Allowing Forum participants to add their own priority ratings to each topic (e.g., 1-5 stars) would be helpful by directing subsequent visitors to those topics rated highly relevant by a majority of community members. | Under Review | Staff is evaluating this suggestion for feasibility in the Public Comments Forum Wiki prototype under development. |
| 2 | Adding sub-categories to the list would allow individuals and organizations to better prioritize requests for comments on their own. | Deferred | Staff believes that, at this stage, it is important to hold the list to a manageable number (currently 16 tags), which will facilitate Staff assignments and minimize administration. This suggestion to create another layer in the taxonomy may be revisited depending upon experience and feedback. |
| 3 | One potential measure of prioritization is where a particular consultation fits within the policy development process. Such a filter field might be called "phase" and contain values such as: <ul style="list-style-type: none"> • Issue Identification • Policy Development • Conflict Resolution • Policy Implementation | Deferred | The Focus Group offered a similar suggestion; however, not all topics are policy matters and would not necessarily have a "phase" associated with them. Staff has determined that, at this stage, it is impractical to develop a generic "phase" construct that would apply to a majority of Public Comment topics. This suggestion may be revisited in the future once we have more experience with various prioritization options. |
| 4 | If staff were to maintain a Gantt chart of the various policy development processes and could reflect which public comment requests were 'critical path' for a larger process, that could be a powerful tool. Participants could check the Gantt chart to have an idea where things stand, what's outstanding, what's behind, how it the schedule is affected. | Deferred | The Focus Group offered a similar suggestion; however, Staff has determined that such a sophisticated construct cannot be properly considered until we have at least the fundamental elements fully operational. |
| 5 | A suggestion has surfaced to associate Public Comment topics by community group as suggestive of who might be interested in participating. Although Staff's "best guess" may be imprecise, the ICANN community can be informed that an omission from a list of potentially interested parties does not suggest disinterest, but that inclusion is simply one more way for various interested parties to have their attention drawn to various topics. | Deferred | A similar suggestion was discussed by the Focus Group, but was not fully developed. Given the diversity of ICANN's community, Staff has determined that it would be too difficult to accurately identify the appropriate audience(s) for a Public Comment solicitation and is also concerned that a useful taxonomy does not exist that could be used for such a purpose. Once we have more experience with various prioritization options, this idea may be revisited. |

Category C: Enhancement 3: Comment/Reply Cycles & Timing

| No. | Issue/Suggestion/Recommendation | Status | Comments/Disposition |
|-----|--|--------------|---|
| 1 | It is critical that restrictions be enforced when replying to a topic. We suggest providing a required reply template with fields such as (1) identification of the comment being replied to and (2) specific points where there is disagreement or correction. The form should allow a single reply to address more than one comment. | Under Review | Staff is currently evaluating whether such a template could be implemented within the Public Comments Forum Wiki prototype under development. |
| 2 | Most of the Wiki style interaction is likely to be dominated by individuals rather than businesses and organizations, which require internal review before posting, thus creating an imbalance in the comment process. | Unknown | Given the support for a multi-threaded discussion forum, Staff recommends that it be attempted in a test environment (planned for November 2011) to determine whether or not this concern should override the perceived benefits. |

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| 3 | It would be a challenge for Staff to decipher how a particular discussion resolved in a set of threaded comments. | Unknown | Staff concedes that the process of developing a Report of a threaded discussion may present challenges; however, the community appears to be in favor of this approach. Staff will monitor its internal processes closely to determine what changes, if any, it may need to make. |
| 4 | There is a significant risk that adding a reply cycle will mainly serve to delay ICANN's decision-making process, while increasing the quality of debate or contributions only modestly. | Unknown | Staff understands that the introduction of a Reply Cycle will lengthen the process with potentially modest gains; however, other viewpoints have been expressed in this Forum that the combination of a threaded discussion format with a Reply Cycle will increase participation and generate robust interaction. Staff is eager to experiment with these concepts and is planning to introduce a limited test in November 2011. |
| 5 | While the 30 day minimum on the initial Comment Period seems adequate for most topics, we urge ICANN to lengthen the 15 day Reply Period to 30 days, especially for complex topics and ones that have received a significant amount of feedback. An extended Reply Period would give participants more time to research and craft the kind of thoughtful discourse that ICANN no doubt seeks to encourage. | Under Review | Staff is considering this recommendation. |
| 6 | Establishment of fixed and rigid time-frames for the Comment/Reply periods is not recommended. The timing and length of the comment periods should be commensurate with the length and complexity of the topic. There is a very real difference between comments from individuals and entities (e.g., GNSO structures, trade associations, coalitions, governments) that must go through a consultation, review, and approval process before they are submitted. For organizations, the proposed deadlines (especially a 15-day reply comment deadline) are too short. | Resolved | Staff is not advocating rigid time-frames for Comment and Reply cycles – only establishing minimum periods. Depending upon topic complexity or other factors, Staff can create Comment/Reply cycles longer than the minimums of 30/15 days, respectively. |

Category D: Enhancement 4: Technical Forum Improvements

| No. | Issue/Suggestion/Recommendation | Status | Comments/Disposition |
|-----|---|---------------------|--|
| 1 | One suggestion - you need to find a way to allow people to note they have commented with one click (this is now extremely common with software and posts on Twitter and Facebook). This would draw in others. And there needs to be a quick and easy way to see what others have said. | Resolved | In the Wiki Forum prototype, capabilities similar to these have been implemented and can be validated during the limited community test planned for November 2011. |
| 2 | We support the goals of a threaded discussion because it allows near real time dialog on issues, but we believe that the forum needs to be managed to make it a comfortable place for open and constructive discussion to happen. It might be helpful if participants identify whether they are participating as an individual or representing an organization. | Under Review | Staff will consider adding a written guideline to this effect; however, most of the time, it is fairly easy to determine whether individuals are acting on their own or representing others. Making this type of declaration has become part of the ICANN culture in most instances and may simply need periodic reinforcement. |
| 3 | Another innovation that ICANN might borrow from the EC is a system of notifications that allow interested parties to "subscribe" to one or more categories of interest so they would be notified when a consultation in a particular category is launched and perhaps about to be closed. | Resolved | Although it only operates for all topics (vs. categories), on ICANN.org, there is a News Alert service that delivers Public Comment announcement notifications via e-mail. In the Wiki prototype platform, a notification mechanism similar to the one suggested has been developed and tested. It is based upon registering interest in one or more categories (or tags), which then prompts the system to send an e-mail whenever a Public Comment topic has been assigned one of those tags. |
| 4 | The forum should remain anonymous even if users must pre-register; anonymity will ensure full transparency and equal weights for all of the comments submitted by ICANN community members, promoting genuine and natural competition of ideas. | Needs Clarification | The concept behind pre-registration is that users will identify themselves, including supplying valid email addresses, so that forum integrity can be maintained. Once an individual has established credentials within the system, it will not be possible to become anonymous. In the prototype Wiki platform, anonymous users (those who have not pre-registered) will be able to read/view the entire site; however, they will not have posting privileges. |

Category E: Additional Suggestions/Recommendations

| No. | Issue/Suggestion/Recommendation | Status | Comments/Disposition |
|-----|--|--------------|---|
| 1 | <p>Reporting. The goal should be to concisely report the major points raised by commenters and explain the rationale as to the disposition of each one. It is through this explicit recognition of the suggestions, ideas, and recommendations submitted that the process will have credibility and accountability. Responding to forum submissions in a specific way is critical to communicating that those efforts were worthwhile and would encourage greater participation in the future.</p> | Under Review | <p>Staff has created a new document entitled "Public Comments Issue Tracking Checklist" that was designed to document forum ideas, suggestions, and recommendations and to show the ultimate disposition of each one. This document is a manifestation of the desire to record community issues and show their status. At the present time, the Checklist is optional and is being used experimentally by the Policy Department. Staff would appreciate community feedback as to its value.</p> |
| 2 | <p>Translations. ICANN should ensure multilingual access to all forms of information as well as the processes pertinent to every policy development initiative. In principle, the structured Public Comment process is a major portion of the information and knowledge dissemination framework so important to effective representation.</p> | Deferred | <p>This issue is being handled as a part of ATRT Recommendation #18.</p> |
| 3 | <p>Decision Timing. One critical factor, sometimes overlooked, is the time gap between the closing of the comment period and when action will be taken on the issue. For the public consultation to be more than a matter of form, some sort of <u>minimum</u> time needs to pass between the close of a public consultation and the decision(s) being made on that subject.</p> | Under Review | <p>Staff will review its procedures to make sure that, among the considerations in calculating the time-frames for Public Comments, Board meetings are factored so that there is sufficient time between the close of the forum and the decision-making process.</p> |
| 4 | <p>Staff Role. Staff, which usually has the broadest knowledge of a Public Comment topic, maintains a passive role. It would be in everyone's interests if Staff took on more of a facilitator role in the process. Staff could elicit questions, provide answers, and encourage people who are focused on the same point to formulate short summaries of their positions before the comment period closes. This would be a huge - but positive! - shift in Staff role, so it would need to be carefully and professionally introduced as it would inevitably be met with suspicion and defensiveness. I have no doubt whatsoever that the rewards would be enormous.</p> | Under Review | <p>This suggestion concerning a more participatory role for Staff in the Public Comment process needs to be reviewed by senior management and, possibly, the Legal Department.</p> |