

# LONG-TERM OPTIONS TO ADJUST THE TIMELINE OF REVIEWS

## BRIEF OVERVIEW

**Purpose:** Over the years, and in particular the past months, there have been discussions in the community on the number of concurrent reviews, including the demand these place on community resources as well as the required budgets and internal resources to conduct these reviews. As such, the community expressed an interest in the opportunity to assess possible approaches that might better streamline reviews, thereby lessening the number of reviews per year, and reducing impact on the volunteer community, while not diminishing ICANN's accountability responsibilities. Posted today are two documents, the purpose of which is to share some options for input, discussion, and additional thoughts from the community on both short-term and long-term solutions to this important area. Principles to inform these approaches are to aim for no more than three to four reviews per year, recognize limited community resources, ensure adequate funding for reviews, and ensure efficiency and effectiveness of the reviews.

The purpose of this Public Comment is to invite feedback on **long-term options** to provide more reasonable scheduling options across ICANN reviews (Specific and Organizational), with the goal of meeting ICANN's accountability and transparency obligations in a more practical and sustainable manner.

**Current Status:** The timing of Specific and Organizational Reviews, mandated by the [Bylaws](#), has resulted in multiple reviews occurring at the same time. Currently, there are eleven (11) Organizational and Specific Reviews, in various phases of the review process taking place concurrently. This is in addition to policy development work and other work across ICANN's community. This high level of activity strains both community volunteer and ICANN resources. The number of reviews running simultaneously, and the fact that frequently there is not enough time to test out the effectiveness of implemented recommendations before the next review cycle begins, have been ongoing themes of discussion within the community. During ICANN61, the

ICANN community discussed the heavy demand of reviews, together with the policy development work and other activities, flagging concerns about the impact on the volunteer community and ICANN resources. Based on discussions with and feedback from the ICANN community, the ICANN organization analyzed options for both immediate (short-term) and long-term approaches to solve the challenges associated with the multiple reviews occurring at the same time. With this Public Comment proceeding, we are seeking input from the community on **long-term options** to smooth out the challenging timing of reviews.

This document outlines the challenges with the existing schedule, the constraints under which we must conduct Specific and Organizational Reviews in line with the Bylaws' mandate, and the principles and related options that the community may wish to consider, with an eye toward developing a more realistic and sustainable review schedule for the future.

***Next Steps:*** After this Public Comment closes, ICANN organization will analyze the comments received and coordinate with the Organizational Effectiveness Committee of the Board (OEC) in identifying recommendations to the Board on paths forward.

***Short-term Options to Adjust the Timeline for Specific Reviews:*** Concurrently with this consultation, we opened a Public Comment period related to short-term options, which aims to provide options to adjust the timeline for one Specific Reviews - the Third Accountability and Transparency Review (ATRT3) in order to alleviate existing strain on volunteers and ICANN resources.

## **DETAILED INFORMATION**

### **Section I: Description and Explanation**

The timing of Specific and Organizational Reviews mandated by the Bylaws has resulted in multiple reviews occurring at the same time. Currently, eleven Organizational and Specific Reviews are underway in different phases of work (more information [here](https://www.icann.org/resources/reviews) [https://www.icann.org/resources/reviews]). The work associated with these reviews is

extensive and has a direct impact on many parts of the ICANN community. Of the Specific Reviews:

- Competition, Consumer Trust, and Consumer Choice (CCT) Review Team is refining its final report and recommendations.
- Registration Directory Service (RDS-WHOIS2) Review Team has finalized its Terms of Reference and is progressing toward its Draft Report.
- Security, Stability, and Resiliency of the Domain Name System (SSR2) Review Team is progressing toward being resumed.
- Accountability and Transparency (ATRT3) Review is awaiting announcement of the Review Team, with five of seven SO/ACs having completed their nominations.

Seven Organizational Reviews are also underway:

- The NRO is currently assessing the Final Report of the independent examiner for the Address Supporting Organization (ASO) Review.
- The independent examiner has issued its Final Report for the At-Large Review, with the At-Large having completed its assessment of recommendations in preparation for Board action in June 2018.
- The planning for the review of the Country Code Names Supporting Organization (ccNSO) is underway, with the work of the independent examiner expected to start in August 2018.
- The Generic Names Supporting Organization (GNSO) is implementing recommendations from the second review of the GNSO, expected to be completed by December 2018.
- The independent examiner for the review of the Nominating Committee (NomCom) has published its Draft Final Report for public comment, with the final report expected in June 2018; the review of the Root Server System Advisory Committee (RSSAC2) is underway with the final report expected in July 2018.
- The review of the Security and Stability Advisory Committee (SSAC) began in February 2018 with data collection and analysis underway.

Specific Reviews are conducted by community volunteers and typically take 12 to 24 months to complete the review work. In addition, preparation for the review by the ICANN community and ICANN organization generally takes six (6) to 12 months. The Board has up to six (6) months to act on the recommendations and then the implementation phase lasts 18 months or longer, depending on the nature of the implementation. More information on the process of Specific Reviews is [here](https://www.icann.org/en/system/files/files/specific-reviews-process-flowchart-31aug17-en.pdf) [https://www.icann.org/en/system/files/files/specific-reviews-process-flowchart-31aug17-en.pdf].

Based on the Bylaws provisions, RDS, SSR and ATRT are likely to converge every five years as the five-year cycle is triggered by the date that the prior review was convened and therefore this schedule is perpetuated into the future. We already have some scheduling issues, such as the pause in SSR, the anticipated length of the RDS-WHOIS2 because of the GDPR developments, and the time it has taken for ATRT3 to get off the ground. Each of these circumstances reduce the time available for the implementation to conclude within the five-year cycle. Whether or not any changes result from the outcomes of the consultation on Short-Term Options to Adjust the Timeline for Specific Reviews, we can already anticipate that these delays will create scheduling issues in not having sufficient time to consider the impacts and effect of implementation, particularly where the community has asked for more time to allow for implementation of recommendations. Furthermore, the Bylaws do not provide any flexibility on the next cycle.

In terms of resourcing for Specific Reviews, each review team is comprised of up to 21 members, with significant time dedicated to the effort. On that basis alone, having several Specific Reviews running simultaneously is difficult for the community to have enough volunteers to serve on teams. There are also other resourcing issues inherent to each Specific Review, including the process of selecting qualified review team members, devoting attention and time to participate in consultations and public comments, and/or in coordinating approved inputs from SOs/ACs and the internal stakeholder groups, constituencies, etc. Every Specific Review requires time and

attention from across ICANN. From a budgetary standpoint, each Specific Review costs approximately \$500,000-\$700,000 to conduct.

Organizational Reviews have many of the same challenges as Specific Reviews. These reviews are conducted by independent examiners engaged through ICANN's procurement process. The organization under review appoints a Review Working Party of 12 to 20 volunteers to provide information, clarifications, and input on the feasibility of proposed recommendations. Organizational Reviews can take a considerable amount of effort from the organizations under review, with the five-year cycle often not being long enough to ensure that the review improvements can be implemented and operationalized in time for the next review. The preparation and procurement process generally lasts six (6) months, with the review work taking 12 months, followed by six (6) months for a feasibility analysis, and preparation for Board action and implementation work lasting 18 months or longer, depending on the nature of the implementation. Organizational Reviews have some ICANN-wide effects as well - devoting attention and time to participate in consultations and public comments, or in coordinating approved inputs from SOs/ACs and the internal stakeholder groups, constituencies, etc. Based on experience, many of the same volunteers participate in several Specific and Organizational Reviews. Each Organizational Review costs approximately \$250,000 to conduct.

More information on the process of Organizational Reviews is [here](https://www.icann.org/en/system/files/files/org-reviews-process-flowchart-31aug17-en.pdf) [<https://www.icann.org/en/system/files/files/org-reviews-process-flowchart-31aug17-en.pdf>].

The large number of Specific and Organizational Reviews taking place at the same time has strained volunteer and ICANN resources and prompted a discussion during ICANN61. Based on feedback from the ICANN community, the ICANN organization analyzed options for both immediate (short-term) and long-term approaches to solve these issues in consultation with the community. We are now seeking input from the community on **long-term options** to smooth out the challenging timing of reviews. This

analysis includes Bylaws sections that would need to be modified if any of the options are supported by the community.

The options outlined in this document are various ways to address the Bylaws-mandates that have resulted in multiple simultaneous reviews. The options also address the inability to modify the mandated review cycles in order to address unforeseen developments. Depending on the options chosen, certain Bylaws sections would need to be modified.<sup>1</sup> The options are rooted in several key principles that aim to rationalize the review schedule to make it more practical for the community. These principles include:

- Staggering the reviews to have no more than one Specific Review and two Organizational Reviews running concurrently;
- Adding timing criteria in order to initiate the next cycle of a Specific or Organizational Review, which could include factors such as a requirement that prior review recommendations be fully implemented and possibly operational for a period of time before the next review is initiated;
- Adding requirements that, like the ATRT, other Specific Review teams complete their work within 12 months. This requirement could also be applicable to Organizational Reviews (although because Organizational Reviews are conducted by independent examiners based on contractual agreements, timing considerations are already incorporated into the process);
- Focusing Specific Review teams' work on topics of highest priority to the community; and
- Adding scheduling flexibility for Specific Reviews to the Bylaws, with appropriate checks and balances.

Under the principle of **staggering reviews**, we propose the option of establishing a limit of no more than one Specific Review running at any time, and no more than two

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<sup>1</sup> This is not a consultation on future Bylaws changes. This is a consultation to consider if any Bylaws changes might be needed in the future in order to address the issues posed through the current Review mandates.

Organizational Reviews running concurrently. The advantages of this option would be a lessened strain on the volunteers and ICANN resources, improved focus on the reviews underway, and a resulting expectation of improved quality of outcome. An additional benefit of a staggered review schedule would be the achievement of stability and predictability in funding and resource planning across multiple fiscal years. Limiting the number of concurrent reviews is expected to result in a more diverse and qualified pool of volunteers available to participate in Specific Reviews, and an improved volunteer experience and participation across all reviews. If a limitation is implemented, the community could reset the understanding of review “cycles”; instead of looking at a full set of Specific or Organizational Reviews as a cycle, we can focus on the proper timing for each review (e.g., what is the proper cycle for ATRTs to occur upon? SSR? etc.). There are no disadvantages associated with this principle. To implement this principle, the ICANN community would need to agree on a means of staggering reviews, for example: i) in order of last review occurrence, and/or ii) based on strategic importance and priority.<sup>2</sup> Implementing this principle would require a modification of the Bylaws and identifying guidelines for staggering reviews and a method for defining strategic importance and priority.

Under the principle of **adding timing criteria in order to initiate a new review and for the duration of a review**, multiple options could be selected. **First**, there could be a condition that implementation of the recommendations from the prior Specific or Organizational Review must be fully completed before the next review begins, and a sufficient amount of time must have elapsed (e.g., 12-18 months) to have enough experience with improvements. These conditions are in line with comments we have heard from the ICANN community. The advantage of this approach would be that the review work would be well-informed by prior reviews and related outcomes, contributing to effective continuous improvement. A disadvantage, is the lack of predictability in the cycle, in that implementation could take a long time for a variety of reasons, including resourcing issues, or having a large number of recommendations out of a single review,

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<sup>2</sup> This notion is already reflected in the current Bylaws relative to the timing of the CCT Review, which is mandated to take place after a New gTLD round has been in operation for one year.

as examples. To mitigate against this, there would need to be a shared agreement between the review team, the ICANN community and the ICANN Board, on what is the desired outcome from each review recommendation and how to measure completion, along with S.M.A.R.T.<sup>3</sup> and prioritized recommendations issued by both the Specific Review Teams and the independent examiners conducting Organizational Reviews. The Bylaws would have to be modified to allow for this change in cycle, and guidelines developed on timing criteria pertaining to prior review recommendations.

**Secondly**, review duration could be limited by adding a requirement for other Specific Reviews, similar to that already in place for ATRT, that Review Teams should issue their final report within one year of convening their first meeting. One way that this could be accomplished is by agreeing to address topics of highest priority and impact. Similarly, for Organizational Reviews, there could be an option to add a requirement to set a timeframe to complete feasibility assessments and initial implementation plans by the organization under review (for example - within three (3) months after the issuance of the final report by the independent examiner). Another requirement could be to set expectations of timing of when the Board acts upon these assessments and plans, along with the final report and recommendations of the independent examiner (for example, within six (6) months of receipt of the completed feasibility assessment and initial implementation plans). By limiting the duration of Specific and Organizational Reviews, we could achieve cost savings, improve volunteer experience and participation, and give an opportunity for participation to a more diverse group, including new volunteers. To put any of these various options (implementation of prior Specific and Organizational Review recommendations to be completed before the next review begins, and a limitation to the duration of Specific and Organizational Reviews) into operation, the community would need to reach a shared agreement on how to prioritize topics and who should do so. As with other options, Bylaws would need to be modified to allow for this change in cycle, and guidelines developed on timing criteria pertaining to review duration and completion of various activities discussed above.

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<sup>3</sup> Specific, Measurable, Actionable, Realistic, Time-bound



Under the principle of **adding scheduling flexibility to the Bylaws**, there are several options to include a process whereby the community and the Board could agree to start a given Specific Review sooner or later than scheduled. Incorporating flexibility would help avoid facing a similar situation as we find ourselves in today by providing the ability to respond to new developments of strategic importance and priority, including risk consideration. The GDPR developments are a good example, in how they are already impacting the RDS/WHOIS2 review and the community is devoting a significant amount of time and effort to address GDPR considerations, with potentially less availability to devote to the scheduled reviews that we are currently required to conduct. However, without appropriate checks and balances, there could be unchecked opportunities to delay reviews. Therefore, for a successful execution of this principle, it would be important to implement appropriate checks and balances within the community and the Board to protect against the weakening of these important accountability tools. For example, there could be a requirement that delaying a review would need to be initiated by the Board or community, with agreement from two-thirds of all SO/ACs. This would require a Bylaws modification, and the development of guidelines on how to achieve scheduling flexibility, while maintaining appropriate checks and balances.

By considering these principles, the ICANN community has the opportunity to rationalize the schedule of Specific and Organizational Reviews in order to ease its workload, normalize the usage of ICANN resources across fiscal years, and attract new and diverse volunteers to conduct Specific Reviews and to participate in the Organizational Review process.

**Other aspects of reviews to improve efficiency and effectiveness:**

The long-term options outlined above (along with the [short-term options](#) addressed in a separate Public Comment) address the scheduling of reviews, to spread them out more evenly, reduce the overall number of reviews running per year, and thereby also reducing the heavy demands on volunteer and ICANN resources. In addition to timing, there are also other factors for consideration to address other aspects of reviews observed by the community to make them efficient, effective and impactful. These

factors should be discussed later, after timing considerations have been addressed. That subsequent conversation could include a wide range of considerations, such as factoring the costs of conducting reviews (i.e. community time and bandwidth in relation to other activities and resources such as travel budget, professional services budget, and ICANN organization support) as compared to the impact and benefit derived from reviews (i.e. measurable improvements). For example, for Organizational Reviews, one path might be to identify a suitably qualified new independent examiner to conduct reviews of all of the component entities, addressing community concerns about impartiality and consistency of reviews. Principles of EFQM-style<sup>4</sup> organizational excellence assessments may offer a useful model to standardize and simplify Organizational Reviews while recalibrating the reviews program with an eye toward widely accepted industry best practices and standards. Additionally, there may be value in having an evidence-based impact assessment conducted to evaluate whether the reviews result in desired impact, as part of a long term strategic view. There may also be other considerations or ideas to address efficiencies and effectiveness of reviews. ICANN is seeking community input on whether consideration of such factors would be useful. In addition, ICANN is interested in any other suggestions towards improving the effectiveness and impact of Specific and Organizational Reviews.

## **Section II: Background**

There are seven Organizational Reviews and four Specific Reviews mandated by the ICANN Bylaws. All reviews (other than the CCT Review, which is mandated to take place after a New gTLD round has been in operation for one year) are triggered by an action related to the prior review cycle.

Organizational Reviews are mandated to be “conducted no less frequently than every five years, based on feasibility as determined by the Board. Each five-year cycle will be computed from the moment of the reception by the Board of the final report of the

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<sup>4</sup> The EFQM excellence model is a non-prescriptive business excellence framework for organizational management, promoted by the European Foundation for Quality Management (EFQM) and designed to help organizations to become more competitive.

relevant review Working Group” (per Bylaws Section 4.4(a). The next (third) cycle of **Organizational Reviews** is scheduled to begin with the review of the General Names Supporting Organization (GNSO) according to the following estimated timeline:

- Generic Names Supporting Organization (GNSO) Review to start no later than June 2021
- Address Supporting Organization (ASO) Review to start no later than May 2023<sup>5</sup>
- At-Large (ALAC) Review to start no later than July 2023<sup>5</sup>
- Nominating Committee (NomCom) Review to start no later than July 2023<sup>5</sup>
- Root Server System Advisory Committee (RSSAC) Review to start later than December 2023<sup>5</sup>
- Security and Stability Advisory Committee (SSAC) Review to start no later than December 2023<sup>5</sup>
- Country Code Names Supporting Organization (ccNSO) Review to start no later than February 2025<sup>5</sup>

Based on the current review cycle, the next review of the GNSO (GNSO3) will begin 2.5 years after the anticipated completion of implementation of the recommendations from the prior GNSO review (GNSO2).

**Specific Reviews** (other than CCT), are also on a five-year cycle, triggered by the convening of a review team. ICANN considers the Board directing the posting of the Call for Volunteers as the convening of the review since the Bylaws do not specify the definition of “convening”. This allows certainty in meeting the five-year cycle. For the three reviews (SSR2, RDS-WHOIS2 and ATRT3) convened to date under the new Bylaws, the time between the issuance of the Call for Volunteers and the announcement of the Review Team has shown to be unpredictable. SSR2 took 7.5 months to appoint volunteers, RDS-WHOIS2 took 7 months, and the ATRT3 has not yet been selected although the Call for Volunteers was issued 16 months ago. Due to the delays in the review team selection process, several community members have raised

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<sup>5</sup> The start of the next review is estimated based on the date that the Board is expected to accept the final report from the current review cycle.

concerns that there is not sufficient time to go through all the required phases, implement improvements, and evaluate effectiveness before the next review cycle begins again.

In addition to Organizational and Specific Reviews, other Bylaws mandate that other reviews are conducted. For example, the IANA Naming Functions Reviews ([Bylaws Article 18 \[https://www.icann.org/resources/pages/governance/bylaws-en/#article18\]](https://www.icann.org/resources/pages/governance/bylaws-en/#article18)) and Customer Standing Committee Effectiveness Review ([Article 17.3 \[https://www.icann.org/resources/pages/governance/bylaws-en/#article17\]](https://www.icann.org/resources/pages/governance/bylaws-en/#article17)) are also going to be kicked off within FY19. While the scope of this analysis covers only Organizational and Specific Reviews, it may be useful to consider other reviews to the extent that they impact community and organizational resource strain, as well as best practice considerations.