

Registrar Stakeholder Group (RrSG) comments on Policy vs. Implementation

The RrSG appreciates this opportunity to provide brief comments on this very important topic which affects the entire ICANN community and applauds ICANN staff for taking the initiative to formalize the differentiation between policy and implementation.

We feel strongly that the identification of policy vs. implementation should be a standard part of the Policy Development Process (PDP) within the GNSO and Working Groups should be tasked with identifying implementation issues as part of the work product which is produced. As evidenced with the multitude of outstanding issues related to the new gTLD program, we believe it is vital to have an understanding of what issues fall into each category at the end of the PDP process so that the community has a clear path forward to resolution and decisions are not revisited in a way meant to intentionally revisit or re-engineer policy decisions or outcomes.

Regarding the distinction between policy and implementation, obviously there are fine lines between the two and differentiating one from the other is not always clear. The RrSG encourages and will continue to participate in the current dialogue on this issue. However, a reasonable standard (and one that has been discussed within the community) is to consider something policy if it imposes obligations on parties outside of the ICANN contracting parties. For example, domain name transfers require registrants to go through a process to authorize a transfer from one registrar to another, and inter-registrar transfers policy directly impacts these registrants that are generally not involved in negotiating contracts with ICANN or registrars. In contrast implementation typically relates to matters in the direct control of ICANN or its contracting parties, where both sides can directly negotiate an acceptable solution and there is no direct impact on outside parties. For example, developing the process of escrowing registration data and agreeing to data formats for that data is a matter of implementation between ICANN, registrars and registries. We are supportive of this general principle and believe it provides for a good framework for this discussion moving forward.

In the posted framework for discussion, there is also use of the term “principles” and how those relate to policy and implementation. Generally, our view is that such high-level principles would lead to policy work and not straight to implementation details. As has been correctly pointed out, this has led to confusion in the past on occasion.

Finally, regarding staff providing justification for classification of issues as policy or implementation, we believe providing the community with this type of detail is critical for the transparency of the organization and will provide confidence in how decisions of this type are reached. We would fully expect both ICANN staff and GNSO working groups to provide this type of justification when various issues are classified as policy or implementation.

Again, we appreciate staff pushing out for discussion a topic which affects the entire community. We look forward to providing further and continued feedback as this issue continues to be discussed.