

Phase II of Public Comments Process Enhancements Reply Comments by the Intellectual Property Constituency (IPC)

October 15, 2011

The IPC submitted comments on the Phase II of the Public Comments Process Enhancements and the work of the focus group on that topic. In large measure, the IPC were in agreement with the findings of the staff and the focus group and attempted to provide some substantive suggestions as to how these objectives might be achieved.

A cursory analysis of the initial comments on this area highlight the issue of threaded discussions in place of comments as an area for further discussion. Therefore, we would like to submit the following observations on the topic of threaded discussions.

Rationale for Threaded Comments

The primary rationales for threaded comments, as outlined in the comments by CADNA, Alina Syunkova, and Kieren McCarthy are:

1. Wider participation
2. More substantive debate
3. Technical feasibility

While the IPC supports each of the first two objectives, it is in no way clear those objectives would be advanced by threaded forums *in lieu* of formalized comments and there's a danger of worsening the prospects for another overriding objective: to improve the integration of comments into the policy development and implementation processes.

Wider Participation

Wider participation is an important objective of an improved comment process but it is not clear that threaded discussions would bring that about. First, history shows that threaded discussions are even more dominated by a few "inside" voices and prove a very harsh environment for newcomers. Instead of a structured document and set of questions, categorized by interest, a free flowing discussion (which is available anyway) imposes a higher bar for participation and a greater likelihood of so-called "flame wars" that ensue in an un-moderated environment. The *insiders* at ICANN don't need more interaction and more interaction isn't that conducive to newcomers.

More Substantive Debate

This assertion too seems to fly in the face of experience with threaded discussions, especially on a deadline. There are plenty of opportunities for substantive debate and, as Mike O'Connor so succinctly insisted, a public comment period should not be a substitute for active participation. Instead, threaded discussions often get bogged down in minutia making it even more difficult for staff to discern the outcome of a particular debate. More on that below.

Technical Feasibility

Kieren McCarthy argues that we should not be afraid of a more dynamic comment process and refers to a pilot project that did not get widely adopted. The IPC would be inclined to agree that the technical feasibility of a threaded discussion forum is not an obstacle. It is fairly straightforward to implement and might be worthwhile to have alongside a formal comment process but is unlikely to bear additional fruit in the form of wider participation or more substantive debate.

Organizational Challenges

As we noted in our initial comments, any system which is put in place should not disadvantage organizational responses that require consensus building. A formal comment period with sufficient time allows the ideal environment for institutions and organizations, representing many many companies and individuals, to provide input. A threaded discussion list promotes repeated rants by individuals with little or no accountability for their views.

Policy Integration

A third objective of an improved comment process is better policy integration which requires the staff be able to understand, catalogue, categorize, report on and provide feedback on any submitted comments. It is difficult to imagine a situation where a threaded discussion list would result in better policy integration. In fact this “squabble amongst yourselves” structure will make it even easier for substantive comments to be ignored rather than catalogued and incorporated in to decisions taken by the board and evaluated by the staff.

If ICANN hopes to truly improve its accountability and transparency through the implementation of the ATRT recommendations, it *must* find a way to integrate public participation into the decision making process of the organization. People who take the time to provide thoughtful analysis and commentary need to know they are being heard and that their time was not wasted. This requires detailed feedback as to which points of view were taken into consideration and which were not and why. If the process is just architected to make it more fun, many of us have better things to do.