

# The ccTLDs and ICANN/IANA

## Global Cooperation within the ICANN Framework

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## Basic principles for ccTLDs I

- RFC 1591
  - in spite of some ccTLDs being pre RFC 1591
  - ccTLDs subscribe to the basic principles of RFC 1591
- ccTLD registry as trustee for the ccTLD
  - (usually) to be incorporated and located in the country the ccTLD relates to
- to serve the Local Internet Community
  - to work closely with the community (including government)
- to take into account the valid interests of the Global Internet Community
  - to not impair the functioning of the DNS as a whole

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## Basic principles for ccTLDs II

- to manage the registry with technical competence
  - to maintain the safety and integrity of their databases
  - to maintain an appropriate number of name servers for their ccTLD
  - to ensure back-up arrangements
  - to implement technical standards when offering the concerned services
- to act in an fair, non-discriminatory, honest, and competent way
  - to design the registration policy and rules accordingly

## Basic principles for ICANN/IANA I

- with respect to ccTLDs
- RFC 1591: technical coordination of the root
- IANA (performed by ICANN)
  - to manage the root competently
  - thus preserving the technical stability of the DNS
- farther reaching policy decisions must only be made on the local level
  - registration policy and rules
  - technical performance
  - changes of the ccTLD registry ("redelegation")
  - etc.

## Basic principles for ICANN/IANA II

- vast majority of all ccTLD issues do not require policy making within the ICANN framework
- otherwise
  - ICANN/IANA single point of failure
    - security and stability in the DNS at risk
  - further development of the Internet as a whole endangered
  - competition between TLDs stifled
  - local diversity and thus inception of new ideas lessened, if not eliminated
  - local (including governmental) approaches to issues like data or consumer protection undermined

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## Global cooperation within ICANN

- ICANN
  - to exercise extensive self-restraint in ccTLD matters
  - to focus on serving the ccTLDs (and thus the Global Internet Community), not ruling them
- ccTLDs
  - to help ensure the competent performance of IANA
  - to participate in the ccTLD community's information exchange and best practice development
- governments
  - to participate in the oversight of IANA performance
  - whereas: possible governmental influence on ccTLDs must be local in accordance with local rules

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## ccNSO

- ICANN ccNSO as “the place for ccTLDs” within ICANN framework
  - in principle, remarkable achievement
- however, problems remain
  - three particularly serious (yet solvable) issues
    - bindingness of ccNSO policies and scope of the ccNSO
      - current ccNSO set-up gives ICANN broad policy-making power over ccNSO members
    - de facto no quorum for policy votes
    - possibility to amend ccNSO-related part of the ICANN bylaws without ccNSO's consent

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## Binding ccNSO policies

- ccNSO members bound by policies „developed through the ccPDP” and “adopted by the [ICANN] Board” (Article IX section 4 paragraph 10 ICANN bylaws)
  - no reference to carefully defined ccNSO scope
    - ccNSO members are bound even if policy not within ccNSO scope
    - ccNSO scope definition irrelevant
  - if issue not within ccNSO scope, ICANN board can replace ccNSO recommendation with own policy (Annex B section 15 paragraph 5 ICANN bylaws)
    - easier for ICANN board to set policies on ccTLD issues when issue not within scope

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## Exemption from ccNSO policies

- ccNSO member exempt if policy “conflict[s] with the law applicable to the ccTLD” (Article IX section 4 paragraph 10 ICANN bylaws)
  - who decides whether this is the case?
- ccNSO member exempt if they declare that “implementation of the policy would [...] breach custom, religion, or public policy [...], and failure to implement the policy would not impair DNS operations” (Article IX section 4 paragraph 10 ICANN bylaws)
  - however, ccNSO Council provides response judging ccNSO member’s declaration (Article IX section 4 paragraph 10 ICANN bylaws), i. e. high political threshold to not follow policy

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## No quorum for ccNSO policy votes

- 50% of ccNSO members required to cast vote on ccNSO policy recommendations; if this quorum not reached, second round of voting without quorum (Annex B section 13 ICANN bylaws)
  - in fact, no quorum
    - technically, one ccNSO member’s vote sufficient
  - danger of capture
  - danger of overwhelming in particular small ccNSO members (lacking the resources to constantly follow ccNSO processes)
  - why implement policies that ccNSO members apparently do not care about?

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## Bylaws amendments on ccNSO

- ICANN board can amend bylaws (Article XIX ICANN bylaws)
  - includes ccNSO/ccTLD-related parts
    - safeguards can be abolished
    - obligations can be added
  - not a decision of ccNSO
  - no consent of ccNSO necessary
- periodic review and revision of ICANN structure required (Article IV section 4 ICANN bylaws)
  - increases possibility of amendments

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## Outlook

- ccNSO needs and deserves improvement
- solution is possible and in the interest of ccNSO members and non-members alike
  
- discussion on ccNSO not to becloud
  - ccTLDs' positive attitude towards ICANN
  - ccTLDs' good work, cooperation, and mutual support

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