

Terms of Reference

*1. Registry agreement renewal *

1a. Examine whether or not there should be a policy guiding renewal, and if so, what the elements of that policy should be.

Yes there should be a policy guiding renewals, and we believe that the initial term of the registry agreement should be of commercially reasonable length.

We are not opposed to renewing registry operator agreements, but oppose presumptive renewals. The registry operator should justify its renewal and meet certain qualifications and standards. Even if the registry operator meets these standards, ICANN should still have the choice to seek out a bid at its discretion.

1b. Recognizing that not all existing registry agreements share the same Rights of Renewal, use the findings from above to determine whether or not these conditions should be standardized across all future agreements.

YES, the renewal terms should be standard across all future registry agreements.

2. Relationship between registry agreements and consensus policies

2a. Examine whether consensus policy limitations in registry agreements are appropriate and how these limitations should be determined.

There are some limitations in registry agreements that may be appropriate, such as the price of registry services and fees that the registry must pay to ICANN. Beyond these, there should not be contractual limitations on consensus policies in registry agreements.

2b. Examine whether the delegation of certain policy making responsibility to sponsored TLD operators is appropriate, and if so, what if any changes are needed.

Delegation of the GNSO's policy development responsibilities to outside parties such as a registry operator is inappropriate. The Registry Operator should have the authority to modify its charter, in accordance with the terms of change in its agreement with ICANN, but should have no specific policy making responsibility outside of this area.

3. Policy for price controls for registry services

3a. Examine whether or not there should be a policy regarding price controls, and if so, what the elements of that policy should be. (note examples of price controls include price caps, and the same pricing for all registrars)

If a TLD has Market Power or Pricing Power, then there should be price controls and cost justification requirements for any price increases. All registries should provide equitable pricing opportunities for all registrars and at least six months notice before any price increase.

3b. Examine objective measures (cost calculation method, cost elements, reasonable profit margin) for approving an application for a price increase when a price cap exists.

A registry must justify any price increases if there are price caps in the registry agreement. Such justification should be objectively evaluated by an independent 3rd party.

4. ICANN fees

4a. Examine whether or not there should be a policy guiding registry fees to ICANN, and if so, what the elements of that policy should be.

YES - There should be a policy guiding registry fees to ICANN. The policy should include a requirement that all ICANN fees charged to the Registries be borne by the Registries themselves and not passed on to third parties.

4b. Determine how ICANN's public budgeting process should relate to the negotiation of ICANN fees.

All ICANN fees charged to the Registries should be borne by the Registries themselves and not passed on to third parties. Any registrar obligation to ICANN should be approved by registrars during the public budgeting process pursuant to the terms of the Registrar Accreditation Agreement and should not be assessed by ICANN indirectly through the registries.

5. Uses of registry data

Registry data is available to the registry as a consequence of registry operation. Examples of registry data could include information on domain name registrants, information in domain name records, and traffic data associated with providing the DNS resolution services associated with the registry.

5a Examine whether or not there should be a policy regarding the use of registry data for purposes other than for which it was collected, and if so, what the elements of that policy should be.

There should be a policy limiting the use of Registry data to just the purpose for which it was collected.

5b. Determine whether any policy is necessary to ensure non-discriminatory access to registry data that is made available to third parties.

There should be a policy limiting the use of Registry data to just the purpose for which it was collected. To the extent that this purpose includes sharing the data with third parties, it should be made available on a non-discriminatory basis.

6. Investments in development and infrastructure

6a. Examine whether or not there should be a policy guiding investments in development and infrastructure, and if so, what the elements of that policy should be.

There should not be a policy guiding investments in development and infrastructure. It should be determined as a matter of contract and/or commercial discretion.