

# **Third Accountability and Transparency Review Team (ATRRT3) Report**

29 May 2020



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# Prologue

The third Accountability and Transparency Review Team (ATR3) strived diligently with the assistance of the ICANN support teams to maintain the process, budget, and schedule identified and agreed upon by the team in April of 2019. Circumstances surrounding the COVID-19 pandemic led to completing the Final Report approximately 55 days beyond the Bylaw-mandated one year, but within budget and proposed terms of reference. ATR3 is grateful to the Board for their allowance and understanding.

Over the course of its work, several unforeseen events have occurred that ATR3 considers subjects for accountability and transparency review of the Board, the ICANN organization (org), and the community. ATR3 discussed and made conscious decisions to not address some specific items due to where we were in the process at the time they were raised or occurred, the events not having drawn to a conclusion, unavailability of documents to review, lack of consensus to undertake the topic, and our limitations on time, resource, and budget. We do however wish to highlight these issues to ensure the ICANN community that these are indeed important issues for the accountability and transparency of ICANN.

ATR3 chose not to address for some or all of the reasons listed above a number of items listed below. ATR3 hopes that these can be considered in a future Holistic Review, ATR Review or other relevant process:

- Proposed change of ownership of the .ORG registry.
  - Was the final decision from the ICANN Board achieved with diligence per the various requirements for this process and did any divergence from this process generate accountability and transparency issues?
  
- The Expedited Policy Development Process (EPDP) in response to the Temporary Specification enacted by the ICANN Board in response to the European Union's General Data Protection Regulation (GDPR), both Phases 1 and 2.
  - ATR3 is concerned about the accountability and transparency of the Generic Names Supporting

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Organization (GNSO) policy development process when considering the EPDP as it relates to data protection.<sup>1</sup>

- The accountability and transparency issues related to Domain Name System abuse.
  - Accountability and transparency concerns around ICANN org not providing a clear rationale relative to its enforcement of DNS abuse provisions in their agreements with contracted parties.<sup>2</sup>
  - Accountability concerns relating to ICANN’s negotiated agreements with contracted parties, specifically regarding DNS abuse, and their alignment with respect to ICANN’s mission, commitments, and core values.<sup>3</sup>
  
- COVID-19 consequences for ICANN.
  - The accountability and transparency considerations related to the shortened review request from ICANN org of the Revised Proposed FY21-25 Operating and Financial Plan and FY21 Operating Plan and Budget due to possible consequences of the COVID-19 funding shortfalls.
  - The ATRT3 recommendation on prioritization will have to be implemented bearing in mind the impact of COVID-19 on ICANN and the community.

As noted above, ATRT3 hopes that these can be considered in a future Holistic Review, ATRT review or other relevant process and ATRT3 members are available to participate and support any or all of these.

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<sup>1</sup> An example of these concerns can be found in SAC111 - <https://www.icann.org/en/system/files/files/sac-111-en.pdf>

<sup>2</sup> An example of these concerns can be found in the CCT1 Final Report - <https://www.icann.org/en/system/files/files/cct-rt-final-08sep18-en.pdf>

<sup>3</sup> Additional examples of these concerns can be found in the Interisle Reports “Criminal Abuse of Domain Names Bulk Registration and Contact Information Access” and “Domain Name Registration Data at the Crossroads: The State of Data Protection, Compliance, and Contactability at ICANN”

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# Executive Summary

This is the Final Report of the third Accountability and Transparency Review Team (ATRT3) produced in accordance with the ICANN Bylaws Section 4.6(b).

This review comes at a critical time for ICANN given its accountability and transparency framework has significantly evolved since the ATRT2 Review was completed in December 2013. Elements which significantly contributed to this evolution include:

- The IANA Stewardship Transition in 2016.
- Approval and implementation in the Bylaws of the CCWG-Accountability Work Stream 1 (WS1) recommendations in 2016. (WS1 essentially had three components to implement: Bylaws changes which the CCWG-Accountability Work Stream 1 Co-chair declared complete,<sup>4</sup> implementation of the Empowered Community,<sup>5</sup> and the implementation of the IRP-IOT<sup>6</sup>).
- The launching of “Enhancing the Effectiveness of ICANN’s Multistakeholder Model” initiative in April 2019.<sup>7</sup>
- Approval by the Board of the CCWG-Accountability Work Stream 2 (WS2) Recommendations<sup>8</sup> for implementation in November 2019.<sup>9</sup>
- The levelling off of ICANN revenue:
  - The budget projections for FY20 show revenue at USD 140 million vs. expenses of USD 137 million as of 3 May 2019.<sup>10</sup>
  - The 2019 Annual Report shows revenue at USD 143 million vs. expenses of USD 139 million.<sup>11</sup>

It is important to point out that Specific and Organizational Reviews also need to evolve. Elements supporting this include:

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<sup>4</sup> <https://community.icann.org/pages/viewpage.action?pageId=61607490>

<sup>5</sup> <https://www.icann.org/ec>

<sup>6</sup> <https://community.icann.org/display/IRPIOTI>

<sup>7</sup> <https://www.icann.org/resources/pages/governance-plan-improve-multistakeholder-model-2019-04-08-en>

<sup>8</sup> <https://community.icann.org/display/WEIA/Final+Report>

<sup>9</sup> <https://features.icann.org/ccwg-accountability-ws2-%E2%80%93-final-report>

<sup>10</sup> <https://www.icann.org/en/system/files/files/adopted-opplan-budget-intro-highlights-fy20-03may19-en.pdf>

<sup>11</sup> <https://www.icann.org/en/system/files/files/annual-report-2018-en.pdf>

- Publication for Public Comment on a “Process Proposal for Streamlining Organizational Reviews” in April 2019.<sup>12</sup>
- Approval of the new Operating Standards for Specific Reviews in June 2019.<sup>13</sup>
- The publication of the Board paper on “Resourcing and Prioritization of Community Recommendations: Draft Proposal for Community Discussions” in October 2019.<sup>14</sup>
- Publication of the “Summary of Recommendations relating to WS2 and Reviews November 2019” which shows a backlog in approving or implementing 325 recommendations.<sup>15</sup>
- The publication of the Board Chair’s paper on “Enhancing and Streamlining ICANN’s Reviews: Issues, Approaches, and Next Steps” in October 2019.<sup>16</sup>

It is in this context that the third Accountability and Transparency Review Team (ATRT3) began its work as per the Bylaws which were based on the Affirmation of Commitments (AoC) between ICANN and the United States Department of Commerce signed on 30 September 2009 which required ICANN to commit to undertaking several reviews including the Accountability and Transparency Reviews (ATRT).

In defining its scope, the ATRT3 added two elements to the eight defined in the Bylaws. These were:

- Accountability and transparency relating to strategic and operational plans including accountability indicators.
- Prioritization and rationalization of activities, policies, and recommendations.

To accomplish this ATRT3 undertook a number of activities including:

- Reviewed the implementation and effectiveness of the 46 distinct ATRT2 Recommendations (see Annex A for details).<sup>17</sup>
- Conducted a major survey of individuals and structures such as

<sup>12</sup> <https://www.icann.org/public-comments/streamlining-org-reviews-proposal-2019-04-30-en>

<sup>13</sup> <https://www.icann.org/en/system/files/files/operating-standards-specific-reviews-23jun19-en.pdf>

<sup>14</sup> <https://www.icann.org/en/system/files/files/draft-proposal-resourcing-community-recommendations-29oct19-en.pdf>

<sup>15</sup>

<https://community.icann.org/display/atrt/Resource+Requests?preview=/105390511/126427725/Issued%20Recommendations%20-%20November%202019.docx>

<sup>16</sup> <https://www.icann.org/news/blog/enhancing-and-streamlining-icann-s-reviews-issues-approaches-and-next-steps>

<sup>17</sup> ATRT2 only officially presented 12 multi-part recommendations which ATRT3 has broken down into 46 distinct recommendations.

Supporting Organizations (SOs), Advisory Committees (ACs), as well as GNSO constituent bodies and Regional At-Large Organizations (RALOs) on a wide range of relevant topics (see Annex B for details).

- Reviewed the ICANN accountability indicators in detail (see Annex C for details).
- Received briefings from various groups such as ICANN org’s Public Comment team and the NomCom Review Implementation Working Group.
- Reviewed many ICANN documents.
- Held interviews and meetings with the community at ICANN65 and ICANN66.

For each topic in its scope ATRT3 gathered all the relevant and available information, assessed the information to identify if there were any significant issues and made suggestions and recommendations where necessary.<sup>18</sup>

In considering and analyzing this information, ATRT3 identified five areas which it deemed required recommendations. In making its recommendations, ATRT3 has adhered to the new guidelines for Specific Reviews as well as its own requirements for recommendations in its terms of reference. All ATRT3 recommendations are meant to be S.M.A.R.T<sup>19</sup> and include a complete checklist of requirements as per Specific Reviews recommendations.

ATRT3 concludes its report by making five recommendations:

Recommendation (Summary)	To	Priority	Consensus
<b>Section 3 - Public Input</b> ( <a href="#">see 3.4.1</a> )			
Public Comment proceedings ICANN org shall institute the following changes: <ul style="list-style-type: none"> <li>- Each Public Comment proceeding shall clearly identify who the intended audience is.</li> <li>- Each Public Comment proceeding shall provide a clear list of precise key questions in plain language that the public consultation is seeking</li> </ul>	ICANN org	Low	Full consensus

<sup>18</sup> Not all the documentation requested by the ATRT3 was made available.

<sup>19</sup> S - specific, M - measurable, A - attainable, R - realistic, T - time-bound

Recommendation (Summary)	To	Priority	Consensus
<p>answers to from its intended audience.</p> <ul style="list-style-type: none"> <li>- Where appropriate and feasible, translations of the summary and key questions shall be included in the Public Comment proceeding and responses to Public Comment proceedings in any of the official ICANN languages shall always be accepted.</li> </ul> <p>With regards to other types of public input ICANN org shall:</p> <ul style="list-style-type: none"> <li>- Develop and publish guidelines to assist in determining when a Public Comment process is required vs. alternate mechanisms for gathering input.</li> <li>- Develop and publish guidelines for how alternative mechanisms for gathering input should operate including producing final reports.</li> <li>- Develop a system similar to and integrated with the Public Comment tracking system for all uses alternate mechanisms to gather input.</li> <li>- Publish the complete “Public Comment Guidelines for the ICANN Organization.”</li> <li>- Resolve the issue of blog posts collecting feedback information when the “Public Comment Guidelines for the ICANN Organization” state that they “will not be used as mechanisms for collecting feedback.”</li> </ul>			
<p><b>Section 7 - Assessment of the Implementation of ATRT2 Recommendations (see 7.4.1)</b></p>			
<p>ICANN org shall review the implementation of ATRT2 Recommendations in light of</p>	<p>ICANN org</p>	<p>Low</p>	<p>Full Consensus</p>



Recommendation (Summary)	To	Priority	Consensus
ATRT3's assessment of these and complete their implementation subject to prioritization (see recommendation on the creation of a prioritization process).			
<b>Section 8 - Assessment of Periodic (now Specific) and Organizational Reviews (<a href="#">see 8.4</a>)</b>			
ATRT3 recommends that the Board and ICANN org: <ul style="list-style-type: none"> <li>- Suspend any further RDS and SSR Reviews until the next ATRT.</li> <li>- Allow one additional CCT Review following the next round of new gTLDs.</li> <li>- Continue with ATRT Reviews with a modified schedule and scope</li> <li>- Evolve the content of the Organizational Reviews into continuous improvement programs in each SO/AC and Nominating Committee (NC).</li> <li>- Add a Holistic Review, as a special Specific Review, which will look at all SO/AC/NC and their relations.</li> <li>- Implement a new system for the timing and cadence of the reviews.</li> </ul>	ICANN org, Board and SO/AC	High	Consensus
<b>Section 9 - Accountability and Transparency Relating to Strategic and Operational Plans including Accountability Indicators (<a href="#">see 9.4.1</a>)</b>			
<ul style="list-style-type: none"> <li>- ICANN org shall provide a clear and concise rationale in plain language explaining how each goal, outcome, and operating initiative is critical to achieving the results of the one it is supporting.</li> <li>- ICANN org shall provide a clearly articulated in plain language specific criteria defining success which shall be S.M.A.R.T for each goal</li> </ul>	ICANN org and Board	Medium	Full Consensus

Recommendation (Summary)	To	Priority	Consensus
<p>(strategic or not), outcome (targeted or not), and operating initiative.</p> <ul style="list-style-type: none"> <li>- For the 2021-2025 Strategic Plan and 2021 Operating Plan, ICANN org shall produce a document listing the required rationales and specific criteria defining success (as defined in this recommendation) for each goal (strategic or not), outcome (targeted or not), operating initiatives etc., found in both of these documents and post it for public consultation prior to finalizing. Once finalized, ICANN org will append these to the 2021-2025 Strategic Plan and 2021 Operating Plan and use the criteria defining success in reporting on the progress of any relevant goal, outcome, operating initiative, etc.</li> <li>- ICANN org shall publish an annual status report on all Strategic Plan and Operating Plan objectives, goals, outcomes, and operating initiatives which will include the above requirements as well as an assessment of progress to date.</li> <li>- ICANN org shall publish an overarching report at the conclusion of a strategic plan starting with the FY2016-2020 Strategic Plan.</li> </ul>			
<p><b>Section 10 - Prioritization and Rationalization of Activities, Policies, and Recommendations <a href="#">(see 10.4)</a></b></p>			
<p>ATRT3 recommends the following guidance for ICANN org in the creation of a community-led entity tasked with operating a prioritization process for recommendations made by review teams, cross-community groups, or any other community-related budgetary elements the Board or ICANN org feels appropriate:</p>	ICANN org	High	Full Consensus

Recommendation (Summary)	To	Priority	Consensus
<p>The Board and ICANN org shall use the following guidance for the creation of a community-led entity tasked with operating a prioritization process. All SO/ACs shall have the option of participating or not in this process. Those SO/ACs wishing to participate in the prioritization process shall have one member per SO/AC. Additionally, the Board and the org shall also each have a member. The Board and ICANN org shall also take into account the following high-level guidance for the prioritization process:</p> <ul style="list-style-type: none"> <li>- Shall operate by consensus of the individual SO/ACs, Board, and org members that are participating in the prioritization process.</li> <li>- Shall consider WS2 Recommendations, which are required to complete the IANA transition and are subject to prioritization but must not be retired unless this is decided by the Board.</li> <li>- Must be conducted in an open, accountable, and transparent fashion and decisions justified and documented.</li> <li>- Shall integrate into the standard operating and financial plan processes.</li> <li>- Can prioritize multiyear implementations but these will be subject to annual re-evaluation to ensure they still meet their implementation objectives and the needs of the community.</li> </ul> <p>Shall consider the following elements when prioritizing recommendations:</p> <ul style="list-style-type: none"> <li>- Relevance to ICANN’s mission, commitments, core values, and strategic objectives.</li> </ul>			

Recommendation (Summary)	To	Priority	Consensus
<ul style="list-style-type: none"> <li>- Value and impact of implementation.</li> <li>- Cost of implementation and budget availability.</li> <li>- Complexity and time to implement.</li> <li>- Prerequisites and dependencies with other recommendations.</li> <li>- Relevant information from implementation shepherds (or equivalents).</li> </ul>			

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## Review Background

The Affirmation of Commitments (AoC) between ICANN and the United States Department of Commerce signed on 30 September 2009 required ICANN to commit to undertaking several reviews:

- Ensuring accountability, transparency, and the interests of global Internet users.
- Preserving security, stability, and resiliency.
- Promoting competition, consumer trust, and consumer choice.
- Enforcing its existing policy relating to WHOIS, subject to applicable laws.

Reviews are important accountability mechanisms that are now required by ICANN Bylaws and are critical to maintaining a healthy multistakeholder model. The AoC Reviews are currently referred to as Specific Reviews and are mandated in Section 4.6 of the Bylaws. They include the Accountability and Transparency (ATRT) Reviews, the Competition, Consumer Trust and Consumer Choice (CCT) Reviews, the Security, Stability, and Resiliency (SSR) Reviews and Registration Directory Service (RDS) Reviews.

According to the Bylaws (Section 4.6(b)), the ICANN Board “*shall cause a periodic review of ICANN’s execution of its commitment to maintain and improve robust mechanisms for public input, accountability, and transparency so as to ensure that the outcomes of its decision-making reflect the public interest and are accountable to the Internet community (‘Accountability and Transparency Review’).*” The Bylaws outline the issues that the Accountability and Transparency Review may assess, as described in Section 2.3 of this report.

Article 4.6 (vi) states that “the Accountability and Transparency Review shall be conducted no less frequently than every five years measured from the date the previous Accountability and Transparency Review Team was convened.” Additionally, there is a requirement that ATRT Reviews be completed within one year.

The first ATRT Review, ATRT1, submitted its Final Report to the ICANN Board on 31 December 2010.<sup>21</sup> The report included 27 recommendations on the following topics:

- ICANN Board of Directors governance, performance, and composition (8).
- The role and effectiveness of the GAC and its interaction

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- with the Board (6).
  - Public input processes and the policy development process (8).
  - Review mechanism(s) for Board decisions (4).
  - Overarching recommendation (1).

The second ATRT Review, ATRT2, submitted its Final Report to the ICANN Board on 31 December 2013. The report included 12 general recommendations (which ATRT3 has broken down into 46 distinct recommendations) on similar themes as those of ATRT1.

The third ATRT Review, ATRT3, held its first face-to-face meeting on 3-5 April 2019 and is mandated to issue its final report within one year of convening its first meeting, that is, by 5 April 2020. However, circumstances surrounding the COVID-19 pandemic led to completing the Final Report approximately 55 days beyond the Bylaw-mandated one year, but within budget and proposed terms of reference. ATRT3 is grateful to the Board for their allowance and understanding with respect to this. Details of the ATRT3 composition are available on the ATRT3 Wiki page.<sup>20</sup> The ATRT3 contracted Bernard Turcotte to serve as a technical writer for the review.

## Review Scope

Per the ICANN Bylaws Section 4.6 (b):

*“(ii) The issues that the review team for the Accountability and Transparency Review (the “Accountability and Transparency Review Team”) may assess include, but are not limited to, the following:*

*(A) assessing and improving Board governance which shall include an ongoing evaluation of Board performance, the Board selection process, the extent to which the Board’s composition and allocation structure meets ICANN’s present and future needs, and the appeal mechanisms for Board decisions contained in these Bylaws;*

*(B) assessing and improving the processes by which ICANN receives public input (including adequate explanation of decisions taken and the rationale thereof);*

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<sup>20</sup> <https://community.icann.org/display/atrt/ATRT3>

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*(C) assessing the extent to which ICANN's decisions are supported and accepted by the Internet community;*

*(D) assessing the policy development process to facilitate enhanced cross community deliberations, and effective and timely policy development; and*

*(E) assessing and improving the Independent Review Process.*

*(iv) The Accountability and Transparency Review Team shall also assess the extent to which prior Accountability and Transparency Review recommendations have been implemented and the extent to which implementation of such recommendations has resulted in the intended effect.*

*(v) The Accountability and Transparency Review Team may recommend to the Board the termination or amendment of other periodic reviews required by this Section 4.6 and may recommend to the Board the creation of additional periodic reviews.”*

The ATRT3 included the above items in its scope, along with the following topics:

- Accountability and transparency relating to strategic and operational plans including accountability indicators.
- Prioritization and rationalization of activities, policies, and recommendations.

## **Methodology**

After identifying and prioritizing its scope items through a series of brainstorming exercises, the team agreed to conduct its work in four work parties: Board, GAC, Reviews, and Community.<sup>24</sup> Work party objectives were guided by ICANN's Bylaws. After completing its initial research and analysis of data, the review team agreed by consensus to move work party deliberations to plenary level.

To undertake its work, ATRT3:

- Organized its report based on its scope items.
- Reviewed the implementation and effectiveness of the 46 distinct ATRT2 Recommendations.
- Conducted a major survey of individuals and structures (SOs, ACs, as well as GNSO constituent bodies and RALOs) on a

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wide range of relevant topics. Results of the survey can be found in Annex B.

- Held interviews and meetings with the community at ICANN65 and ICANN66.
- Received briefings from various groups such as ICANN org’s Public Comment team and the NomCom Review Implementation Working Group.
- Reviewed the ICANN accountability indicators in detail.
- Reviewed many ICANN documents.
- Requested and received some clarifications from ICANN org.

## Summary of Major Findings

ATRT3's first major finding was that reviews, both Specific and Organizational, could not continue as they were currently operating. Elements which led the ATRT3 to this conclusion, in addition to those listed in the introduction section, included:

- Results of the ATRT3 survey regarding reviews and prioritization.<sup>21</sup>
- Publication of the “Summary of Recommendations relating to WS2 and reviews November 2019” which shows a backlog in approving or implementing 325 review and WS2 recommendations.<sup>22</sup>
- Work on the evolution of ICANN’s multistakeholder model.<sup>23</sup>
- Issues related to the implementation of past Specific Review recommendations (ATRT2, SSR1, WHOIS2).<sup>24</sup>
- Issues related to the completion of the SSR2 Review which is still ongoing three years after its first meeting.<sup>25</sup>
- Issues with Organizational Reviews with respect to the recommendations made by Independent Examiners (ALAC<sup>26</sup>, SSAC<sup>27</sup>, and RSSAC<sup>28</sup>).

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<sup>21</sup> See Sections 8 and 10 of this report for details.

<sup>22</sup>

<https://community.icann.org/display/atrt/Resource+Requests?preview=/105390511/126427725/Issued%20Recommendations%20-%20November%202019.docx>

<sup>23</sup><https://www.icann.org/news/blog/evolving-icann-s-multistakeholder-model-the-work-plan-and-way-forward>

<sup>24</sup> See Section 7 of this report for details.

<sup>25</sup> <https://community.icann.org/display/SSR/SSR2+Review>

<sup>26</sup>

[https://community.icann.org/pages/viewpage.action?pageId=69280572&preview=/69280572/71598316/At-Large%20Review%20Feasibility\\_Final-Revised\\_20170919.pdf](https://community.icann.org/pages/viewpage.action?pageId=69280572&preview=/69280572/71598316/At-Large%20Review%20Feasibility_Final-Revised_20170919.pdf)

<sup>27</sup> <https://www.icann.org/en/system/files/files/ssac-review-faiip-13may19-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/files/rssac2-review-faiip-02oct18-en.pdf>



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These findings are presented in Sections 7, 8, and 10 of this report which include recommendations on completing the implementation of ATRT2 Recommendations, amending Specific and Organizational Reviews (which will require Bylaws amendment) and instituting a prioritization system for the implementation of review and CCWG recommendations (which may require a Bylaws amendment).

ATRT3 also identified significant issues with respect to the production of and reporting on ICANN strategic and operating plans and makes a recommendation regarding this in Section 9 of this report.

Finally, ATRT3 found some significant issues with public input especially with respect to Public Comment vs. other public input methods. ATRT3 presents its findings, including a recommendation, in Section 3 of this report.

## **Review Team Suggestions and Recommendations**

In a context where there are 325 review recommendations awaiting approval or implementation, ATRT3 has chosen to be pragmatic and effective in making recommendations. Although ATRT3 makes both recommendations and suggestions, it only requires the implementation of its five recommendations. Suggestions are meant to be exactly that - suggestions - and it is left to those concerned by these individual suggestions, found in Annexes A and B of this report, to decide if they should or should not be implemented.

In making its recommendations, ATRT3 has also adhered to the new guidelines for Specific Reviews as well as its own requirements for recommendations in its terms of reference. All ATRT3 recommendations are meant to be S.M.A.R.T and include a complete checklist of requirements for Specific Review recommendations.

Additionally, ATRT3 is ranking its recommendations in order of priority to facilitate the implementation planning for these.

ATRT3 makes five recommendations and assigns the following priorities:

- **High Priority Recommendations**
  - **Recommendation on Amending Both Specific and Organizational Reviews (Section 8)**

Specific Reviews:

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- RDS Reviews
    - Given the final results of the EPDP process will certainly have an impact on any future RDS reviews (and could even remove the need for any further Specific Reviews on this topic), and considering that ATRT3's final report will be published prior to the EPDP delivering its final report, ATRT3 recommends suspending any further RDS reviews until the next ATRT review can consider the future of RDS reviews in light of the final EPDP report recommendations, the results of the Board's consideration of these as well as any other developments which affect directory services.
  
  - CCT Reviews
    - There should be one additional and clearly scoped CCT Review.
    - It shall start within the two years after the first introduction to the root of new gTLDs of the (possible) next round.
    - It should be limited to a duration of one year.
    - Additionally, a framework of data collection must be in place prior to the next round of gTLDs and the availability all data set should be confirmed prior to the selection of the review members and must be provided within 30 days of the review being launched.
  
  - SSR Reviews
    - Given SSR2 will not be finalized prior to ATRT3 completing its work, ATRT3 recommends that SSR Reviews shall be suspended until the next ATRT Review (or any type of review that include current ATRT duties) which shall decide if these should be terminated, amended, or kept as is.
    - This review could be reactivated at any time by the ICANN Board should there be a need for this.
  
  - ATRT Reviews
    - ATRT Reviews should continue essentially as they are currently constituted but with the following enhancements:

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- Shall start no later than two years after the approval by the Board of the first recommendation of the Holistic Review.<sup>29</sup>
  - Shall maintain responsibility to recommend to the Board the termination or amendment of other periodic reviews and the creation of additional periodic reviews (including reassessing reviews terminated by previous ATRTs).
  - All pre-identified documentation that is required for the review, such as the previous ATRT's implementation report, shall be available at the first meeting of the review team.
  - Terms of reference shall be established at the first meeting.
  - Note: The Operating Standards for Specific Reviews shall be amended to allow review teams to obtain professional services, which is not covered by subject matter experts, should they require such services.
- A new Holistic Review of ICANN shall be set up:
    - Timing considerations:
      - The first one shall start no later than one year after approval by the Board of the first ATRT3 recommendation.
      - The next Holistic Review shall start no later than every 2.5 years after approval by the Board of the first recommendation of the latest ATRT review (e.g., the second Holistic Review would begin 2.5 years after the Board approved the first recommendation from ATRT4). This cadence would ensure a minimum of two continuous improvement assessments for each SO/AC/NC prior to holding the next Holistic Review.
      - The launching of any other review activities should be suspended while a Holistic Review is active.
      - Should operate based on Operating

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<sup>29</sup> Holistic Reviews are defined in the next section of this recommendation.

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Standards for Specific Reviews and should be time limited to a maximum of 18 months.

- Objectives:
  - Review continuous improvement efforts of SO/AC/NC based on good practices.
  - Review the effectiveness of the various inter-SO/AC/NC collaboration mechanisms.
  - Review the accountability of SO/ACs or constituent parts to their members and constituencies (this will include an in-depth analysis of the survey results).
  - Review SO/AC/NC as a whole to determine if they continue to have a purpose in the ICANN structure as they are currently constituted or if any changes in structures and operations are desirable to improve the overall effectiveness of ICANN as well as ensure optimal representation of community views (but taking into consideration any impacts on the Board or the Empowered Community).

#### Organizational Reviews:

ATRT3 shall evolve the content of Organizational Reviews into continuous improvement programs in each SO/AC/NC:

- Continuous Improvement Program:
  - ICANN org shall work with each SO/AC/NC to establish a continuous improvement program. Such a continuous improvement program shall have a common base between all SOs, ACs and the NC but will also allow for customization so as to best meet the needs of each individual SO/AC/NC. All SO/AC/NCs shall have implemented a continuous improvement program within 18 months of this recommendation being approved by the Board. These continuous improvement

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programs will include:

- Annual satisfaction survey of members/participants:
  - Each SO/AC/NC shall perform a comprehensive annual satisfaction survey, or equivalent mechanism, of its members/participants. The focus of the survey should be on member/constituent's satisfaction (and issue identification) vs their respective SO/AC/NC. It can also include satisfaction with ICANN org services such as staff support, travel services, translation services, etc.
  - For SOs and ACs that are composed of sub-structures this should apply to their individual sub-structures and the results of all sub-structures shall be aggregated to generate a result for the given SO or AC.
  - The results of these would be public and used to support the continuous improvement program as well as input for the Holistic Review. If the survey results note a significant issue, this shall be the trigger to initiate appropriate measures to deal with any such issues.
- Regular assessment of continuous improvement programs:
  - At least every one year each SO/AC/NC will undertake a formal process to evaluate and report on its continuous improvement activities which will be published for Public

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Comment.<sup>30</sup> This would allow the Holistic Review to consider a minimum of two assessment reports and related public comments for each SO/AC/NC.

- Details of the assessments will be defined during the elaboration of the continuous improvement program with each SO/AC/NC. If the SO/AC/NC desires and the budget permits, the assessment can be conducted by an independent contractor or by having an intensive one to five-day workshop.
- The Board should publish at least every three years a summary of its continuous improvements over that period. These reports would be used as input for the Holistic Review.
- Funding of the continuous improvement for SO/AC/NC:
  - This continuous improvement program is not meant to be a cost reduction activity vs current overall costs of Organizational Reviews over a 5-year period. ICANN shall ensure that, as a minimum, the same overall budget is available for the continuous improvement efforts of the SO/AC/NC.
  - Regardless of the processes selected by the specific SO/AC/NC, this shall fit in the financial constraints available for such activities.

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<sup>30</sup> Public Comment on reporting of continuous improvement activities is only required every three years.

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- **Recommendation on Prioritization of Review and CCWG Recommendations (Section 10)**

Considering the strong support in the responses to the ATRT3 survey indicating that ATRT3 should make recommendations with respect to prioritization, and recognizing that there are several significant activities being undertaken in parallel by other parts of the ICANN community regarding prioritization (Enhancing the Effectiveness of ICANN's Multistakeholder Model, ICANN Board Paper on Resourcing and Prioritization of Community Recommendations: Draft Proposal for Community Discussions), ATRT3 proposes that only a community-led process can legitimately operate a system for prioritizing the implementation of recommendations by review team or cross-community groups.

Additionally, ATRT3 wishes to align its recommendation with the efforts currently underway to develop a prioritization system to avoid conflicting recommendations or duplication of work. As such, ATRT3 has opted to provide some high-level guidance for the proposed prioritization process.

ATRT3's starting point was the following section from the ICANN Board Paper on Resourcing and Prioritization of Community Recommendations: Draft Proposal for Community Discussion:

*Section 5 B - "The ICANN community and ICANN org will collaboratively develop a methodology for prioritizing recommendations across review teams and for funding implementation of prioritized recommendations as part of the annual budget process. This methodology will be consistent with the existing budget development process, including the solicitation and consideration of community input. See also the discussion in Section 4 on prioritization."*

In this context that the ATRT3 recommends the following guidance for ICANN org in the creation of a community-led

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entity tasked with operating a prioritization process for recommendations made by review teams, cross-community groups, or any other community related budgetary elements the Board or ICANN org feels appropriate:

- ATRT3 recommends that all SO/ACs should have the option of participating in this annual process or not. Those SO/ACs wishing to participate in the prioritization process shall have one member per SO/AC. Additionally, the Board and the org shall also each have a member. The Board shall also take into account the following high-level guidance for the prioritization process:
  - Shall operate by consensus of the individual SO/ACs, Board, and org members that are participating in the prioritization process.
  - Is meant to have a continuous dialogue with ICANN org during the preparation of the budget.
  - Shall consider WS2 Recommendations which are required to complete the IANA transition and are subject to prioritization but must not be retired unless this is decided by the Board.
  - Must be conducted in an open, accountable, and transparent fashion and decisions justified and documented.
  - Shall integrate into the standard operating and financial plan processes.
  - Can prioritize multiyear implementations but these will be subject to annual reevaluation to ensure they still meet their implementation objectives and the needs of the community.
  - Shall consider the following elements when prioritizing recommendations:
    - Relevance to ICANN’s mission, commitments, core values, and strategic objectives.
    - Value and impact of implementation.



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- Cost of implementation and budget availability.
  - Complexity and time to implement.
  - Prerequisites and dependencies with other recommendations.
  - Relevant information from implementation shepherds (or equivalents).

- **Medium Priority Recommendations**

- **Recommendation on Accountability and Transparency Relating to Strategic and Operational Plans Including Accountability Indicators (Section 9)**

- In strategic and operating plans, ICANN org shall provide a clear and concise rationale in plain language explaining how each goal, outcome, and operating initiative is critical to achieving the results of the one it is supporting (e.g., for each strategic goal there must be a rationale as to how it is critical for its strategic objective).<sup>31</sup>
- ICANN org in its strategic plans and operating plans shall have a clearly articulated, in plain language, specific criteria defining success which shall be S.M.A.R.T (unless appropriately justified) for all goals (strategic or not), outcomes (targeted or not), operating initiatives, etc.
- For the FY2021-2025 Strategic Plan and FY2021 Operating Plan, ICANN org shall produce a supplementary document within six months of approving this recommendation using the criteria defining success in reporting on the progress of any relevant goal, outcome, operating initiative, etc., to create a listing of required rationales and specific criteria defining success (as defined by ATRT3 in this recommendation) for each goal (strategic or not), outcome (targeted or not), and operating initiatives, etc., that are found in both of these documents and post it for public consultation prior to

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<sup>31</sup> Critical meaning will fail without it

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finalization.<sup>32</sup> Once finalized, ICANN org will append these to the FY2021-2025 Strategic Plan and FY2021 Operating Plan and use the criteria defining success in all reporting on the progress of any relevant goal, outcome, operating initiative, etc.

- ICANN org shall publish an annual status report on all strategic plan and operating plan goals, outcomes, and operating initiatives.<sup>33</sup> This should clearly assess each of the elements presented in the strategic and operating plans (goals, outcomes, etc.) clearly indicating what progress was made vs the target in concise and plain language. Prior to being finalized the report will be submitted for Public Comment.
- ICANN org shall publish an overarching report at the conclusion of a strategic plan starting with the FY2016-2020 Strategic Plan. This should clearly assess each of the elements presented in the strategic plan its text (objectives, goals, outcomes) clearly indicate if it was attained or not and justify that assessment in concise and plain language. The report shall conclude with a section distilling the results of the assessments and how this could be applied to following strategic plans or their revisions. The report will be submitted for Public Comment prior to being finalized.

- **Low Priority Recommendations**

- **Recommendation on Public Input (Section 3)**

To maximize the input from each Public Comment proceedings, ICANN org shall update the requirements per the following:

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<sup>32</sup> ATRT3 understands that the Strategic Plan and the Operating Plan have been or are in the process of being finalized and that the retroactive application of these requirements may not be possible for all goals, outcomes, etc. ATRT3 expects a best effort from ICANN for applying these requirements to the Strategic Plan in the short term, providing explanations for those elements which cannot meet the requirements and in the medium term correcting any issues given the strategic plan is a “living document”. With respect to the operational plan, ATRT3 has similar expectations as those of the Strategic Plan with the exception that all operating initiatives in the Operating Plan be in line with the ATRT3 requirements within one year following the approval of this recommendation by the Board.

<sup>33</sup> strategic plan assessments will include the entire period covered to date and not only a single year unless reporting on the first year.

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- Each Public Comment proceeding shall clearly identify who the intended audience is (general community, technical community, legal experts, etc.). This will allow potential respondents to quickly understand if they wish to invest the time to produce comments. This is not meant to prevent anyone from commenting but is rather meant as clarifying who is best suited to comment.
  - Each Public Comment proceeding shall provide a clear list of precise key questions in plain language that the public consultation is seeking answers to from its intended audience.
  - Where appropriate and feasible, translations of the summary and key questions shall be included in the Public Comment proceeding and responses to Public Comment proceedings in any of the official ICANN languages shall always be accepted.
  - Results of these questions shall be included in the staff report on the Public Comment proceeding.

Additionally, with regards to other types of public input ICANN org shall:

- Develop and publish guidelines to assist in determining when a Public Comment process is required vs. alternate mechanisms for gathering input.
- Develop and publish guidelines for how alternative mechanisms for gathering input should operate including producing final reports.
- Develop a system similar to and integrated with the Public Comment tracking system, which will show all uses of alternate mechanisms to gather input including results and analysis.
- Publish the complete “Public Comment Guidelines for the ICANN Organization.”
- Resolve the issue of blog posts collecting feedback information when the “Public Comment Guidelines for the ICANN

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Organization” state that they “will not be used as mechanisms for collecting feedback.”

- **Recommendation on Completing the Implementation of ATRT2 Recommendations (Section 7)**
  - ICANN org shall review the implementation of ATRT2 Recommendations in light of ATRT3’s assessment of these and complete their implementation subject to prioritization (see recommendation on the creation of a prioritization process).