

Just to make things clear, Denmark doesn't want RFC 1591 or ICP1 noted anywhere on this document. In that case I will lose my business and it will go to my government. We tried to move away from RFC 1591, which is why we are here because of this document. So please don't put that in.

### **Marianne Wolfsgrubber (CENTR)**

1) There is one more best practice document, CENTR best practice document, adopted by CENTR and approved by most of the board of the CENTR members.

2) The registries work for the benefit and on behalf of the local internet community and that is one of the real important things. That is more or less what we want to say in the best practices. I'm not sure if a registry has to stay in a country to work in the country for the best interest of the local internet community. You just have to make sure that you work on behalf of them. A good word in here because from a legal point of view, I would not be sure how to define 'arrangement' with the local internet community.

### **Chris Disspain (.au)**

I would like to comment on the one of the .tv point,

3.4.3.2 'The law under which the contract between the Registry and the Registrant operates will be stated in that contract and, unless otherwise agreed, will be the law of the country or territorial authority in 3.4.3.1.'

Given that your contract is entered into bio registrant, it is obviously otherwise agreed. So I don't think this is actually problem for you. Given that the registrant and you enter into a contract.

### **Joel Disini (.ph)**

I would like to make a comment regarding first paragraph of 3.1.

'The primary duty of the ccTLD Manager is one of Public Service and to manage and operate the ccTLD Registry in the interest of and in **consultation with the Local Internet Community**, mindful of the interests of the Global Internet Community.

We would want language clarifying that 'consultation with the local internet community' does not mean 'seeking permission.' Any confusion regarding consultation and seeking permission might perhaps obligate some registries perform laborious and extensive procedures before implementing any policies regarding the registry.

### **Fay Howard**

Have you had some experience of confusion between a document that says 'in consultation' and 'seeking permission'?

### **Joel Disini (.ph)**

Yes, and it also seems to be reflected in this. I assume it is not a situation that is particular to .ph. There seems to be a trend now there is a greater involvement, which is all for the good. But it should be clarified that consultation does not constitutes seeking permission.

3.4 Financial matters 'ccTLD registries should not be limited as to business model.' Also interested in the language that 'also' does not limit the model in which the ccTLDs run. In terms of whether its stake holder is a model or a private corporation. Not just strictly financial but in how the policies are implemented.

### **Elisabeth Porteneuve (.fr)**

I would like to make a comment on Anthony Bishop, which is actually the ICANN governing law. The ccTLD registry is operating on behalf of and for the local internet community. The main users are sitting in the country. These people speak languages, used to life in that country, and use the local law. In conflict to a situation they may one day have with a registry, they should have advantage to understanding the law under which they, as registrants, have contract with registry and they should understand what it is about.

### **Joel Disini (.ph)**

It is easy for someone to claim that the registry is not consulting with the public. It's hard to prove that we are consulting them. People have said that we are making decisions which are only for the interests of the registry and what we had to do was do a survey. It's expensive and laborious to do a survey to prove that what you decide as a registry, ccTLD manager is what the public want. It's very clear that we have to separate 'consulting' from 'seeking permission'. We will consult and on the basis of our consultation, we will decide what we think is best. This can be misinterpreted, at least in my country it has been misinterpreted to mean I have to seek permission from the public. It's good to put it there to make it clear.

### **Fay Howard**

Just clarification of the language.

### **Peter Dengate Thrush (.nz)**

This is the price for having no government regulation. The trade off is you prove, as often as your community wishes you to, that you are acting in terms of the second clause, trustee for the delegated domain, with a duty to serve the community. If you cannot prove that you are meeting that need and serving that need, that may mean you have to consult and you may have to change your ways as a result of that consultation. The alternative is government regulation.

### **Bill Semich (.nu)**

I made a comment particularly to Per's comment, I am not proposing that we mention or specifically call out RFC 1591 or ICP1. I am pointing out that many of us are organized around the language of RFC 1591, and looking to not have certain directions. In addition, I agree with

Anthony Bishop on issues related to whether we even need section 3.4.3. I don't see any reasons for ccTLD constituency to be telling everyone to obey the laws. Any company that is in the business of registering a domain name is obeying the law of the country in which it is registering that business. It is not our job to the policemen for the local corporate law or the local financial law enforcement agencies of any country. Saying that ccTLD managers should operate under the law of country is obvious. If they were not, they would be out of business. This is unnecessary verbiage and will get a lot more support if you just get rid of this.

#### **Peter Dengate Thrush (.nz)**

This is what allows you to protect an organization like yours because the alternative is that the ccTLD managers should operate under the law of the country associated with the ccTLD. This is the deliberate strengthening of the right of a ccTLD manager to live in a different country from where the cc is associated and for the law of that country to govern, not the law associated with the cc in the terms of 3.4.3.1.

#### **Bill Semich (.nu)**

That is assuming that you've deleted the 4<sup>th</sup> paragraph of 3.1, where the ccTLD is to be incorporated in the locality of territory.

#### **Peter Dengate Thrush (.nz)**

It is subject to pre-existing arrangements and since it is only a 'should', it can be anywhere else. What 3.4.3 says, if you are somewhere else you can choose both the contracts with registrants governed by that other law and the registry manager can live by that other law. The alternative is the GAC principle which says it's the law of the cc which governs everything.

#### **Bill Semich (.nu)**

I am still concerned about 3.4.1 and the offending paragraph.

#### **Emil Avancena (.ph)**

My question is regarding listening local internet community. If you're a trustee of the community, how else can you act without consulting the media and without listening to the community? Or even taking efforts to follow what the community says? It is just putting that in perspective.

#### **Stephano Trumpy (.it)**

The ccTLDs has been conceived in the middle of the 1980s to serve the local internet communities. The adoption of 3166 introduced this problem of various more states and territories. We are preparing a document called best practice for we are trying to define the real goals of ccTLDs and how they should be managed. In the document that has been presented here, I see the possibilities of accommodating all the cases which are de facto running on another base, which was not the initial goal of the cc. To my opinion, this

document is good and is accommodating the present situation of all those who are not exactly aligned with this concept. Perhaps, in the future there will be only the need for the present ccTLDs which are running outside the country for business. Let's say to make an effort to encounter more than they are doing right now, the local internet community's expectations. It's hard to find the unanimity on this document and why don't we vote and find out how much we agree on this principle. The people who don't agree have nothing to fear now because they have all the possibilities to be accommodated with this. Vote for the document as it is

### **Fay Howard**

We have already done that, the vote wasn't very conclusive.

### **Stephano Trumpy (.it)**

You wanted to verify who weren't voting electronically. The ones presented here is the general opinion

### **Sue Leader (.nz)**

For the benefit of the Philippine's people have spoken, that consultation sentence originally had this much words saying how you consulted, how you worked out who they were. Many of the ccTLDs felt that was too restrictive. That language which might help you is in the sister document, the guidelines for implementation. That could give you some guidelines. And bearing in mind, in the definitions of local internet community, it says clearly this will vary from country to country. That might help. I would like to move under section 3.1, status and responsibilities, 4<sup>th</sup> paragraph, the words after 'resident in the territory of the ccTLD', put a full stop and delete 'or if the manager is a corporation'. I suggest that on the basis of that meets the needs of dealing with the GAC concerns about being resident but it is still clear, it strengthens existing arrangements and in the absence of pre-existing arrangements, this is how you will go in the future. But it deals with the fact that some countries don't have incorporation law.

### **Patricio Poblete (.cl)**

This is going to be too far because even people who were questioning before accepted the fact the admin contact had to be resident. So with this, that could not be true, because of preexisting arrangements. It goes beyond what has been asked.

### **Sabine Dolderer (.de)**

There is still the statement 'ccTLD manager should be resident in the territory of the ccTLD'. That means ccTLD, whether it's an admin or an organization, should be resident there. If it is an organization and if there is an incorporation law in the country, it should be incorporated there. That's actually what is base of that statement.

### **Nigel Roberts (.gg)**

What we are trying to do is to apply Laymen's knowledge to corporate law. If you are a ccTLD manager, your customers, who will be the local internet community by and large in most ccTLDs, should be able to find you and get a hold of you. They should have an expectation that they can be treated under something they are familiar with. That is a goal we can agree with. But when you try and say it must be incorporated, or so on, you start falling into traps because you are being prescriptive and you are falling into exceptions. You should have a place of establishment, so that the ccTLD manager should be established in the territory of the ccTLD.

### **Willie Black (.uk)**

I want to take it back to generality. I was uncomfortable with the vote and think the vote got a low turnout because the people are scared. We are striving to get the wording right, but I hear us all really agreeing on the feel we should be giving to this. We are all scared because we are worried of **1)** this being incorporated into our contract with ICANN, and **2)** because of that contract's termination conditions are really delegation and redelegation. Someone might come along and remove the contract between ICANN and give it to somebody else because you are failing to do what the paragraph states. We don't quite know where this will affect us contractually and that means I'm not going to agree to this, anything other than in principle. I'm fundamentally worried about the status of the document and how it relates to the contractual situation.

### **Chris Disspain (.au)**

It is unfair to suggest, just because there perceived to be a low turn out in the vote, the vote is not valid. If people were that scared, they would have all voted no. However, majority of them voted yes.

### **Willie Black (.uk)**

I didn't vote because I wasn't going to say yes.

### **Chris Disspain (.au)**

This is the only substantive point that has come up with this document, section 3.1.4. I would not like to see the whole document being thrown out simply because of this point. We can just take out the offending piece and proceed with the best practices document.

### **Fay Howard**

A lot of people actually agreed with that point, when it was drafted (from memory). People who are opposed can suggest an alternative wording.

### **Anthony Bishop (.tv)**

Just with regards to specific language up there, the basic point still remains and that is

whether that language says ccTLD manager should say admin contact, which is the current requirement.

### **Nigel Roberts (.gg)**

If it says ccTLD manager, what is the ccTLD manager? ICANN is now using phrase 'sponsoring organization' and I don't know what that means.

### **Fay Howard**

Sum up these comments, put to the list and people who want to revise wording do so and get the drafting committee or the redrafting committee to look again. The AdCom can look at it the next meeting.

### **Peter Dengate Thrush (.nz)**

This is the way out. It distressed to take these documents where we worked so hard and have them consigned to the list. If we let this go, good ideas will be allured and then quietly strangled. We need this document for 2 reasons: **1)** we need a sword to put into the hand of the board, the board has to know that this is the collective strength of the ccTLDs. And they have to use it anyway they see fit. They will be able to oppose the GAC principles. We have given them the sword. **2)** It is also the shield that we need to protect ourselves against the attack that we are useless and disorganized and cannot achieve a consensus position. So, I would like to finish this discussion with an actual document we can agree. It's only 9 votes that are holding up from this. I suggest 2 things: **1)** put the amendment that Bill proposed: put 'administrative contact' be substituted for ccTLD manager. If we can get that through, this document has some strength. **2)** If we cannot do that, remove the paragraph completely. This is only a model and anyone who wants it can put it back on its own contract. What we should be trying to do is get a document we can all agree on and if there are things we cannot agree on, can take them out, and those of us who want them, can put them on our own personal contracts. We must try and preserve 99% of the document we all agree on. I will move Bill's amendments, the words 'ccTLD manager' be substituted by the words 'administrative contact'.

### **Chris Disspain (.au)**

I second that.

### **Fay Howard**

It's 3.1, paragraph 4.

### **Nigel Roberts (.gg)**

The 'incorporation' business on the next line, delete it all after the comma. (was the proposed amendment by Sue)