Draft ccNSO Council Comment Pilot Holistic Review

Version 1.0
Consultation of the ccNSO Council completed:
Approved by the ccNSOP Council:

The Country-Code Name Supporting Organization (ccNSO) Council welcomes the opportunity to provide a response and input to ICANN's Draft Terms of Reference for the Pilot Holistic Review (PHR). This response and input reflects the views of the ccNSO (Council) and was adopted as such in accordance with the Guideline: ccNSO Statements (2016)[1].

0. Summary

The ccNSO Council believes that the scope and structure of the proposed terms of Reference for the PHR are lacking in clarity, too broad and too interdependent on other initiatives to conduct a successful pilot. Without careful review of the scope and structure and without broad support from the various community groups the starting conditions for the PHR are sub-optimal.

The ccNSO Council's view is that this lack of clarity and other deficiencies will mean that the majority of the work of the currently envisioned PHR will be taken up arguing about its scope and intentions. The Council believes that a pilot is not the appropriate place to address such fundamental issues. Therefore, the Council recommends a 3-phased process of first clarifying the scope for the review, second agreeing the approach to a pilot, and third conducting a pilot.

1. Observations

Scope and Dependencies.
It seems that - as noted in Section II Background – a number of community groups have varying "interpretations of the intended scope and purpose of the Holistic Review". The divergence in interpretation was confirmed by the questions, responses and discussions of community members, members of ATRT3 and staff during the 11 October 2022 webinar. For your reference we have included a summary of some questions and statements from the webinar.

[1] https://ccnso.icann.org/sites/default/files/filefield_47783/guidelines-statements-30mar16-en.pdf

It is our understanding that the varying interpretations relate to the scope of the Holistic Review, specifically whether or not to include a review of the purpose and structure of SOs and ACs and their constituent groups in the Holistic Review and what the impact would be of such a review (some of the participants on the 11th Webinar even referenced the 2002-2004 Evolution and Reform Process, which resulted in a complete redesign of ICANN). With respect to review of the purpose and structure of the ccNSO, we note that this is one of the core questions of "Organizational Reviews" (ICANN Bylaws section 4.4). The ccNSO Council believes that the implications and impact of inclusion of purpose and structure in Holistic Reviews will first need to be understood and agreed upon by potentially affected parties**. It is inappropriate for this work to be done within a pilot.** Without proper phasing and gating, there is a high risk that this topic will adversely impact the PHR itself and that it will be very difficult to mitigate any outcomes from it that sections of the community disagree with.

Further, it is clear from the Scorecard document that "A Holistic Review should also be looked at in light of other dependencies, including those relating to other Specific and Organizational Reviews and **related workstreams** (emphasis added)." **Again, it is inappropriate for this work to be done within a pilot.**

To understand these and other dependencies and hence the scope of the Holistic Review and a PHR, we suggest there should first be a process of fact finding. This could be a mapping of all current activities related to an item to be reviewed within the Holistic Review and a PHR. Such fact finding would lead to an understanding of if and/or how various workstreams and/or processes are focusing on the same element(s) included in the scope of the Holistic Review and a PHR. For example, SO/AC accountability is a topic of the Implementation WS 2 Accountability, the Holistic Review, part of the evolution of the Multi Stakeholder Model initiative and is a component of Organizational Reviews (see also the scorecard page 9 and 10). Initiating the PHR without a thorough understanding of the interdependencies and the impact on the review itself risks significant duplication of work, re-litigation of matters already agreed upon, and the undermining of the very purpose of conducting a PHR.

The ccNSO Council also understands from the Scorecard document that this major initiative is presented as a 'Pilot' to "*remove the initial dependency on amending the Bylaws before the review can proceed. This will also allow for better scoping of the Holistic Review as a Specific Review within the Bylaws. Though no Bylaws change is required to initiate the Holistic Review pilot, there will still be a large dependency on widespread ICANN community participation in the piloting of the first Holistic Review.*"

The Council appreciates the need to avoid unnecessary Bylaw changes and hence calling this a 'Pilot'. However, we believe that trying to structure the effort as one process where there

is a real lack of clarity on scope and dependencies will lead to members of the PHR team focusing on interpreting, discussing and negotiating the scope of the PHR, without any real feed-back and support from the community groups.

Structure of the Pilot Holistic Review and volunteers.

It is the understanding of the ccNSO Council that the initiative will include at least the following three (3) components:

- Address "information gaps"
- Develop a program for review elements
- Conduct an assessment and report using the elements from addressing the "information gap" activities and using and testing elements from the holistic review program

The Council notes that the skills and experience to complete one work item may be completely different from those required to complete another one. For example, developing reviews and conducting a review on continuous improvement, requires people with a different skill-set, knowledge and experience to those required to consider how various SO/AC would be held accountable for implementing the recommendations coming from the Holistic Review.

Secondly, based on the Terms Of Reference of the PHR 21 volunteers are expected to be actively involved for 18 months. This not only impacts them and their community group, but, maybe more importantly, the organization for which they work. In addition the community groups are expected to provide feed-back and updates during these 18 months and will therefore need to actively monitor progress. With the uncertainties already discussed in this process, it will be the subject of extensive lobbying, negotiations and possibly of conflict and disagreement within and between various stakeholder groups. All of this will draw large amounts of community energy and attention and require large amounts of work from all volunteers selected for the duration of the PHR as proposed to meet the specified timeframe.

The Council believes that both aforementioned aspects with respect to members of the PHR volunteers and expectations of the ccNSO and other groups, will create a natural bias of the review team towards volunteers from larger organisations. The Council also believes that expecting the ccNSO and others to stay actively involved over 18 months on top of their priority work items, is unrealistic.

Thirdly, one of the questions the PHR Team is expected to answer during the PHR is around budget, resourcing etc. In the view of the Council this is a specialist area and one in which an

SO or AC should appoint subject matter experts who may well be different from those appointed to the PHR Team.

The Terms Of Reference

In addition to the general observation above, the ccNSO Council makes the following detailed observations with respect to the proposed Terms of Reference

ToR Section II

Mission-

Whilst this is the mission for the Holistic Review set out in the ATRT 3 report, it is unclear whether it is intended to be the mission for the PHR. Further, of course, it has already been acknowledged that there is considerable variation in the interpretation of scope and purpose of the Holistic Review and clearly the same issues arise in respect to the PHR. For example, Bullet Point 3 implies a structural review of SO/ACs. It is unclear what the status of any recommendations on structure would be but the ccNSO Council believes that any recommendations in respect to the structure of the ccNSO is a matter that should be led by and ultimately decided upon by the membership of the ccNSO.

Objectives, Deliverables & Timeframes-

This suggests that the PHR will address 'information gaps'. The purpose of a pilot is not to address information gaps but rather to run a process and identify gaps in that process.

Bullet Point 3 indicates that the PHR should consider dependencies and how they would factor into the scope of not just future Holistic Reviews but also into the actual PHR itself. This is not work that should be done within the PHR but must, of necessity, take place prior to the launching of a pilot.

Bullet Point 4 asks the PHR to propose the skill sets required for future Holistic Review teams. This implies that the PHR is not of itself an actual review yet in other places in the document it seems clear that it is, in fact, an actual review. In any event, nowhere is there any mention of the skill sets required for members of the PHR team. Even if it is NOT an actual review there is significant work to be done to ensure that those on the team have the necessary skills to conduct it.

It appears that all of the objectives and deliverables listed in the 8 bullet points are requirements for what an Holistic Review should do. The ccNSO Council believes that such work should be carried out prior to the launch of a PHR and that the PHR should be used to test whether the objectives and deliverables decided on are actually workable. The ccNSO Council believes that the work currently being contemplated as a PHR is better undertaken through a staged process by an **Holistic Review Structure Cross Community Working Group**.

Sub-heading - Holistic Review Program-

Bullet Point 4 tasks the PHR with developing a program under which a review of changes to SO/AC structures and operations would be done. Whilst there has been an acknowledgement that there are differing views about whether ATRT 3 recommends that an Holistic Review should examine SO/AC structures this Bullet Point seems to be saying that an Holistic Review should review structure. In respect to this please see our comment above on the Mission set out in the ToR.

Objective and Deliverable chart-

The deliverables listed against the objective 'Pilot Holistic Review' - these are NOT deliverables one would expect from a pilot but rather matters that would result from a structuring exercise. As we say above this work should be undertaken by a CCWG tasked with structuring the intended PHR but clearly and specifically NOT tasked with conducting any type of actual review be it a pilot or otherwise.

The deliverables listed against objective A – of these, 2, 3 and 4 are relevant to the structuring of a review. Point 1 is an actual review matter and not appropriate at the planning stage.

The deliverables listed against objective B – of these, 2, 3 and 4 are relevant to the structuring of a review. Point 1 is an actual review matter and not appropriate at the planning stage.

The deliverables listed against objective D – of these, 2, 3, 4 and 5 are relevant to the structuring of a review. Point 1 is an actual review matter and not appropriate at the planning stage.

2. Recommendations

The ccNSO Council proposes the following:

1. Set up a **Holistic Review Structure Cross Community Working Group** to:

Phase 1 - ***Define Scope of the Review, Identify Dependencies and fact-finding.*** Discuss and reach agreement on scope and dependencies and do research as to current state of affairs with respect to topics to be included and dependencies to understand what will and what will not be reviewed.

Phase 2 - ***Define the approach to and methods for the Pilot Review.*** Based on the scope, develop and define the approach, methods to be used, including whether external parties

should be involved, and the respective roles of review team members, community, Org and Board. During this phase the criteria to assess whether the PHR is successful should be developed.

2. **Set up a Pilot Holistic Review Team to:**

Conduct the PHR as defined during phase 1, using the method and approach agreed in phase 2 and evaluate the outcome against the criteria developed in phase 2.

The timing and schedule of the PHR will need to be re-assessed in light of the above.

Annex A: Observations 11 October Webinar.
Comments made during webinar which indicate a total lack of understanding (even amongst those who were members of the ATRT3 team) about what the Holistic Review (HR) recommendations are actually supposed to achieve and what the purpose of this pilot is -

We will be doing something that has not been done since 2002 when here was a full structural review that led to ICANN 2.0.

The HR is to review the effectiveness of the Continuous Improvement (CI) efforts of SOs and ACs not to change the SOs and ACs themselves.

Should we use the public comment phase to make suggestions for structural changes to SOs?

The HR is not a way to shape or review specific items within an SO or AC but should address how CI is going.

But how can the HR do this when there has been so little time for CI exercises to be put in place?

The reason for calling it a pilot is that otherwise the bylaws would need to be changed before doing it. In reality it is not a pilot – we are doing a HR – it is named a pilot but it is a real review.

Questions unanswered or left for the pilot review itself to decide

- why is there a lack of independence – why self-assessment only?
- what is the mandate of the pilot HR team?
- what will the status of any recommendations be?
- why not design it first?