



# Review of the ICANN Address Supporting Organisation (ASO)

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**Draft report for ASO consideration**

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28 June 2017

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## 1. Executive Summary

This report contains an assessment of the purpose, function and overall organisational effectiveness of the ASO. At a basic, functional level, our findings indicate that the ASO AC operates much as it was originally intended in relation to its mandate, forwarding global policy proposals to the ICANN Board on the rare occasions when they come up, nominating individuals to fill seats 9 and 10 on the ICANN Board of Directors when required, and defining procedures for the selection of individuals to serve on other ICANN bodies. Since the ASO was established, the purpose and tasks for which the ASO was set up remain largely the same, and there is no obvious need for significant organisational reform.

At a higher institutional level, however, relations between the NRO and ICANN have evolved in recent months in a way that will have certain implications for the operations of the ASO. In particular, the signing of a service level agreement (SLA) between the NRO members and ICANN, that came into effect following the IANA transition in October 2016, has subtly altered the relationship between the two organisations by adding a layer of contractual responsibility. At the same time, work related to the preparation of the IANA transition and the creation of the ICANN *Empowered Community* has been associated with an increase in the number and range of demands that are being put on the ASO.

In recent months ASO representatives have faced requests for engagement from ICANN where it has not been immediately clear which branch of ASO leadership should assume responsibility. A number of grey areas have emerged within the ASO regarding the separation of powers and responsibilities between the ASO AC and the NRO EC. Our report contains several recommendations regarding the need to clarify the separate roles and scope for action of the ASO AC and the NRO EC in connection with the operation of the ASO.

We believe the partnership between the NRO and ICANN, in connection with the function and operations of the the ASO, is rooted in mutual self-interest. However, it is equally apparent to us that the partnership risks coming under considerable strain if the administrative overhead that is associated with participation in ICANN, starts to outweigh the benefits of collaboration. ICANN and the NRO have much to lose if the partnership were to fail and we believe it is in the interests of both organisations to act decisively and pre-emptively to ensure that the ASO remains focused on its core mission, and to guard against current and possible future pressures for the ASO to become involved in community-wide activities that may be a distraction.

Our main recommendation to the ASO AC and the NRO is to clearly delimit which types of activities the ASO AC and NRO members can participate in to avoid being drawn into areas which lie outside of the ASO's core interests or into conflicts of interest. We have thoroughly discussed the structure of the ASO and explored different structural and functional models. We suggest a few updates to the thirteen year-old ASO MoU so as to better reflect the current organisational reality of the ASO.

## 2. Second Review of the ASO: Purpose & Scope

This is the second independent Organisational Review of the ICANN Address Supporting Organisation (ASO); the first Review since the ASO was formally established as a member of the *ICANN Empowered Community* following the IANA transition, in October 2016.

Periodic review of the ASO is formally called for by ICANN Bylaws<sup>1</sup>. Section 4.4 paragraph A of the Bylaws states that:

*The Board shall cause a periodic review of the performance and operation of each Supporting Organization, each Supporting Organization Council, each Advisory Committee (other than the Governmental Advisory Committee), and the Nominating Committee (as defined in Section 8.1) by an entity or entities independent of the organization under review.*

ICANN Bylaws further state that the goal of periodic reviews which are “*to be undertaken pursuant to such criteria and standards as the Board shall direct*”, is to determine:

- (i) whether that organization, council or committee has a continuing purpose in the ICANN structure,*
- (ii) if so, whether any change in structure or operations is desirable to improve its effectiveness, and*
- (iii) whether that organization, council or committee is accountable to its constituencies, stakeholder groups, organizations and other stakeholders.*

ICANN Bylaws indicate that the Government Advisory Committee (GAC) “*shall provide its own review mechanism*” although no specific arrangements are mentioned regarding the review of the ASO. The ASO Memorandum of Understanding, however, indicates that:

*With reference to the provisions of Article IV, Section 4 of the ICANN Bylaws, the NRO shall provide its own review mechanisms.*

In the interests of clarity regarding the review process for the ASO, our view is that it would be appropriate to ensure that ICANN Bylaws and the ASO MoU are fully consistent with each other.

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**Recommendation # 1:** ICANN Bylaws should be updated to reflect the fact that the NRO will, like the GAC, and according to the ASO MoU, provide its own review mechanism for the review of ASO.

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<sup>1</sup> ‘New’ ICANN Bylaws (adopted May 2016)

**Recommendation # 2:** The ASO MoU should be updated to reflect the fact that appropriate section of the New ICANN Bylaws regarding Organizational Reviews is Section 4.4 (previously Article IV, Section 4).

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Finally, the present review of the ASO, as described in Article 8 of the MoU, should not be confused with the periodic review of the ASO MoU, called for in Article 9 of the ASO MoU, which states that:

*“MoU signatories will periodically review the results and consequences of their cooperation under the MoU. When appropriate, the signatories will consider the need for improvements in the MoU and make suitable proposals for modifying and updating the arrangements and scope of the MoU.”*

Although this report covers many aspects of the ASO MoU, its scope according to the Terms of Reference, is wider and includes:

*“all functions undertaken by the ASO in support of ICANN, and in particular with regards to global number policy development and the appointment of individuals to various ICANN bodies including the ICANN Board. Additional known tasks undertaken by the ASO in support of ICANN [...] such as the development of procedures to make appointments to other ICANN bodies [are also covered].”*

In short, the review team sees articles 8 and 9 as unclear as to when the discussion with ICANN should be held for review of the MoU. We feel that the MoU review with ICANN (mentioned in Article 9) should naturally follow on from the review mentioned in Article 8.

During the current review process, the NRO has been scrupulous in ensuring the complete independence of our Review team. We are grateful for the logistical support provided by the NRO Executive Secretary and thank the NRO and the RIR staff for their cooperation. Reviewers are also grateful for the individual input provided by the ASO AC Members and the NRO EC & ASO AC for their joint statement<sup>2</sup> which was a valuable input to our review.

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<sup>2</sup> Statement of the NRO EC and the ASO AC Regarding the 2017 ASO Review:  
<https://aso.icann.org/statement-of-the-NRO-EC-and-aso-ac-regarding-the-2017-aso-review/>

### **3. Methodology**

This Review was carried out by ITEMS International, over a six-month period, between February and July 2017.

#### **3.1. ASO Foundational documents**

Reviewers have considered the following documents relating to the role and function of the ASO:

- ICANN Bylaws
- The ASO MoU (including attachments A & B)
- The Address Council Operating Procedures
- Related, non foundational documentation such as the NRO MoU, ASO FAQs, the current SLA with IANA/PTI, the CRISP team work product, ASO AC meeting minutes, NRO EC meeting minutes, RIR procedures for NC/AC election, etc.

#### **3.2. Face-to-face interviews**

Reviewers attended the ICANN-58 meeting in Copenhagen and the following RIR meetings:

- APRICOT-2017, Ho Chi Minh, 20 Feb. - 2 March 2017
- ARIN-39, New Orleans, 2 - 5 April 2017
- RIPE-74, Budapest, 8 - 12 May 2017
- LACNIC-27, Foz de Iguaçu, 22 - 26 May 2017
- Africa Internet Summit 2017, Nairobi 28 May - June 2, 2017

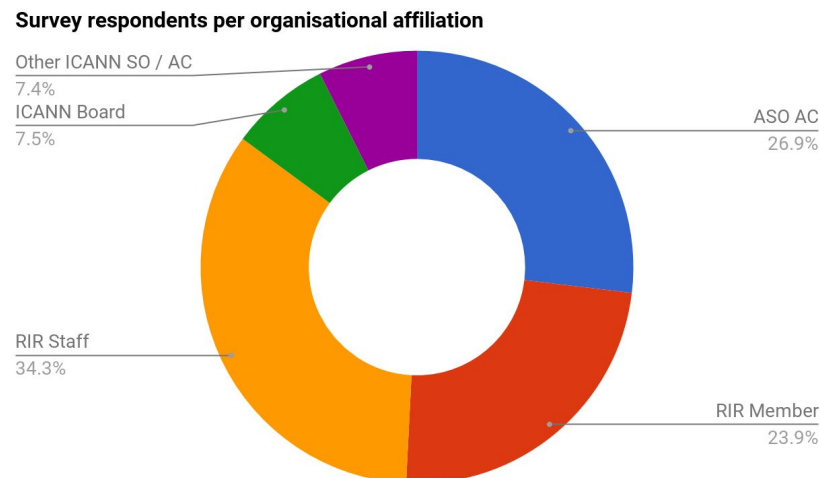
During these meetings Reviewers conducted extended face-to-face interviews with members of the numbering community in the following main categories:

- ASO AC Members
- Former ASO AC Members
- NRO EC Members
- RIR Board Members
- RIR Staff
- ICANN Board of Directors
- ICANN Staff
- Former RIR CEOs

#### **3.3. Online survey: response rate**

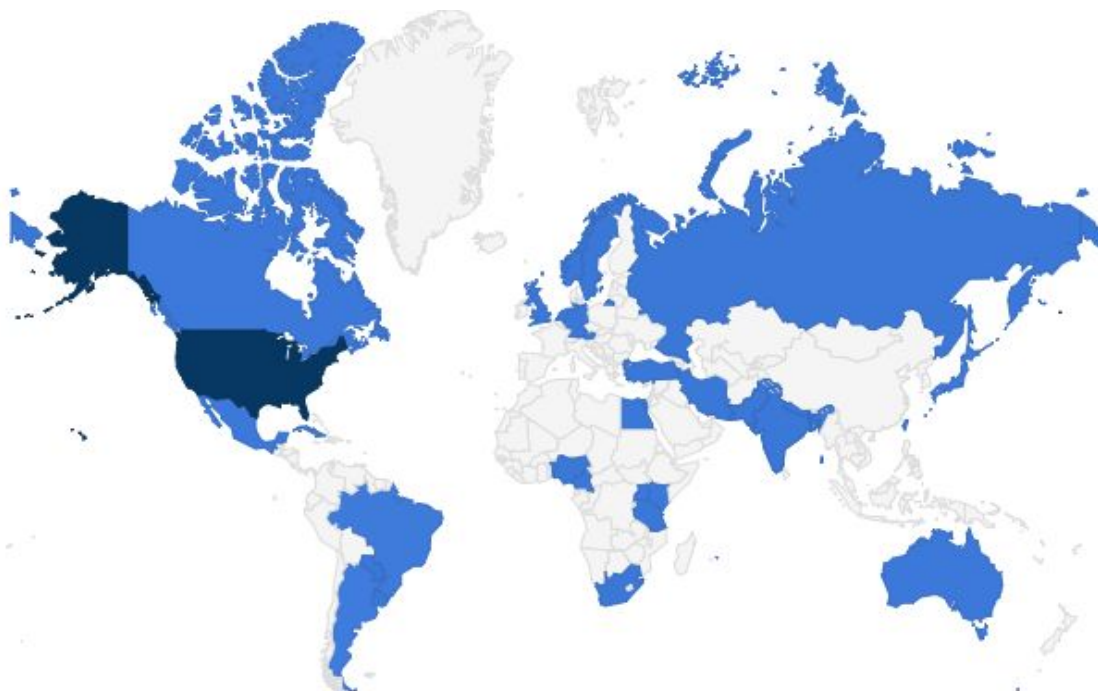
At the same time as interviews were carried out Reviewers conducted a data collection exercise using a survey format. To date 69 responses have been collected.

The breakdown of respondents per organisational affiliation shows an expected distribution of respondents from the various segments of the numbering community that were targeted. This includes the 15 members of the ASO AC, the five members of the NRO EC, five ICANN Board Directors, five representatives of the other ICANN SOs and ACs, and a significant number of the RIR Staff.



The breakdown of respondents per geographic region reveals a fairly even distribution of respondents around the world with a somewhat higher (but not unexpected) number of respondents from the North American region.

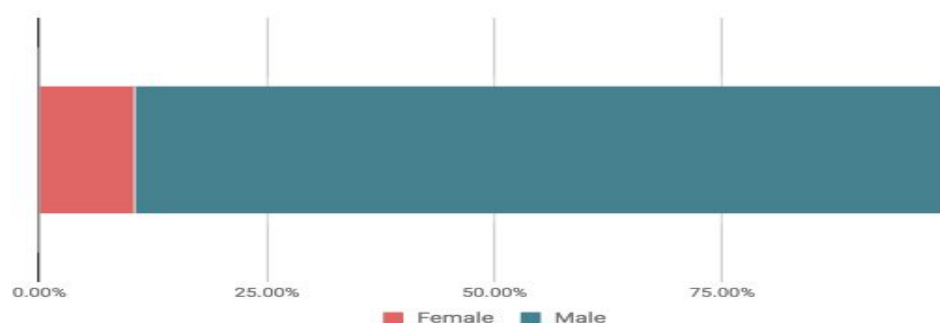
**Figure 1: Heat map showing response rates per country (darker shades of blue corresponding to higher response rates)**





Finally, the breakdown of respondents per gender reveals a significant (but again not entirely unexpected dominance) of male respondents, reflective of the current gender ratio in the global numbering community.

#### **ASO Review global survey: Gender balance of respondents**



### **3.4. Chatham House Rule**

The **Chatham House Rule**<sup>3</sup> has been used to protect the identity of all contributors. Quotes included in this report are attributed by organisational affiliation only.

### **3.5. Note on terminology**

Throughout this report we use the term “ASO” to refer to the representatives of the entire Numbering Community consisting of both the NRO Executive Committee and the NRO Number Council / ASO Address Council.

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<sup>3</sup> Chatham House rule: <https://www.chathamhouse.org/about/chatham-house-rule>

## 4. Background: Purpose and Rationale of the ASO

### 4.1. Origins of the ASO

The Address Supporting Organisation (ASO) came into existence in 1999 with the signing of a first Memorandum of Agreement (MoU)<sup>4</sup> between the recently formed ICANN and the three Regional Internet Registries (RIRs) in existence at the time - the Asia Pacific Network Information Centre (APNIC), the Réseaux IP Européens (RIPE Network Coordination Centre) and the American Registry for Internet Numbers (ARIN)<sup>5</sup>.

According to original ICANN Bylaws, responsibility for policy development within ICANN was delegated to three supporting organizations (SOs) - the Address Supporting Organization, the Domain Name Supporting Organization (DNSO), and the Protocol Supporting Organization (PSO) - each with responsibility for developing and recommending policies and procedures for the management of identifiers within their respective remit. Originally it was intended that each SO would be financially independent from ICANN<sup>6</sup>.

Following the formal recognition of the Latin America and Caribbean Network Information Centre as an additional RIR, in 2002<sup>7</sup>, and the creation of the Number Resource Organization (NRO)<sup>8</sup> as a global coordinating body for the RIRs, in 2003, a second MoU<sup>9</sup> was signed in October 2004. This second MoU which specifies *“the roles and processes supporting global policy development, including the relationship between the Internet addressing community (represented by the NRO) and ICANN within the operation of this process”* remains the main foundational document of the ASO.

### 4.2. The function and purpose of the ASO within ICANN

Article 1, Section 1.1, Paragraph III of the Bylaws specifies that the mission of ICANN covers:

*“[The] Coordination, allocation and assignment at the top-most level of Internet Protocol numbers and Autonomous System numbers. In service of its Mission, ICANN provides registration services and open access for global number registries as requested by the Internet Engineering Task Force (“IETF”) and the Regional Internet Registries (“RIRs”) and (B) facilitates the development of global number*

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<sup>4</sup> ICANN-RIR MoU (1999)

<https://aso.icann.org/documents/historical-documents/memorandum-of-understanding-1999/>

<sup>5</sup> Resolutions Approved by the Board, Santiago Meeting (August 1999)

<https://archive.icann.org/en/meetings/santiago/santiago-resolutions.htm>

<sup>6</sup> Reviewers note that the ASO is, today, the only ICANN Supporting Organisation that is fully financially independent from ICANN, in conformity with the original designs for the ICANN organisation.

<sup>7</sup> IANA Report of Recognition of LACNIC as a Regional Internet Registry

<https://www.iana.org/reports/2002/lacnic-report-07nov02.html>

<sup>8</sup> NRO MoU (2003)

<https://aso.icann.org/documents/memorandums-of-understanding/nro-memorandum-of-understanding/>

<sup>9</sup> ICANN-NRO MoU (2004)

<https://aso.icann.org/documents/memorandums-of-understanding/memorandum-of-understanding/>

*registry policies by the affected community and other related tasks as agreed with the RIRs.”*

The role and advisory function of the ASO is subsequently described in Section 9.1 of the Bylaws:

- a. *The Address Supporting Organization (“Address Supporting Organization” or “ASO”) shall advise the Board with respect to policy issues relating to the operation, assignment, and management of Internet addresses.*

This is similar to the definition of the ASO’s purpose as described on the ASO website;

*The purpose of the ASO is to review and develop recommendations on Internet Protocol (IP) address policy and to advise the ICANN Board.<sup>10</sup>*

ICANN Bylaws emphasize the advisory as opposed to the policy development role of the ASO within ICANN. This sets the ASO apart from the other two ICANN Supporting Organisations (SOs) - the GNSO and the ccNSO - that are described as “policy development bodies” with responsibility for “developing and recommending global policies” to the Board. In contrast the ASO has a unique organisational structure within ICANN.

The ASO is also a unique structure in ICANN because the policy processes of the ASO’s constituent bodies are entirely carried out at a regional level and rarely rise to the global (ICANN) level. Global policies that need to be ratified by the ICANN Board (and indeed many of the other tasks that the ASO performs) only come up on rare occasions. In addition, the role of the ASO is limited in scope to that of Internet numbering resources while the rest of the bodies that make up ICANN are concerned, by and large, with Internet naming issues.

The ASO should not be treated in the same manner as other ICANN Supporting Organisations due to this limited focus. Since most ICANN activities are concerned with naming issues, the consensus viewpoint amongst ASO participants was that ASO Members should not participate in these naming discussions for a variety of reasons that we describe in this report.

#### **4.3. ASO MoU: The role of the NRO as the ASO**

Whereas ICANN Bylaws state that the ASO shall be an entity established by MoU between ICANN and the NRO, for its part the ASO MoU establishes that the NRO will fulfill the role, responsibilities and functions of the ASO as defined in ICANN Bylaws. The two documents are mutually defining:

*Under this agreement between ICANN and the Number Resource Organization (NRO), the NRO shall fulfill the role, responsibilities and functions of the ASO as defined within the ICANN Bylaws*

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<sup>10</sup> <https://aso.icann.org/about-the-aso/>

Many within ICANN and the NRO, including many of those interviewed as part of this Review, have interpreted this to mean that the ASO *is* the NRO. Since the NRO, according to the MoU, is the organisation that is responsible for carrying out the functions of the ASO then, for the purpose of simplicity, it may be stated that the ASO is simply the name that is used to refer to the NRO within ICANN.

In a joint statement from the ASO AC and the NRO EC the following disambiguation was provided regarding the separate functions of the two bodies.

*“The numbering community is represented within the ICANN community by two different bodies, the ASO and the ASO AC. The NRO, when acting within ICANN, is referred to as the ASO, and the NRO’s Number Council is referred to as the ASO AC.”*

However this apparently straightforward dichotomy of roles and nomenclature is not as widely understood as might be hoped. For others this is a mis-interpretation which ignores the fact that the NRO has a larger organisational structure and broader purpose than the ASO. It fails to recognise that the policy development function and various other organisational responsibilities of the ASO AC, as defined by the ASO-MoU, represent only a subset of the activities that are regularly carried out by the NRO. In this view, any activities that are carried out by the NRO that are not specifically covered by ICANN Bylaws or the ASO MoU should be considered NRO work.

One member of the ASO explained the separate organisational roles within the ASO as follows:

*“The interesting thing here is that the ASO AC sits within the ASO and the ASO is not defined in the ASO MoU except for one line. One statement in the MoU says that the NRO performs the role of the ASO. The NRO MoU says that the NRO consists of the NRO EC, the NRO NC and the secretariat.”* (Member of the ASO AC)

It appears this lack of a common understanding regarding the role and function of the ASO within ICANN, may have become exacerbated in recent months, notably since the establishment of the ICANN *Empowered Community*. Our guess is that the distinction between the respective roles of the ASO AC and the NRO EC will become further blurred as the ICANN *Empowered Community* becomes fully established unless clear lines of responsibility are drawn at this juncture.

Reviewers suggest that such differences of opinion may well have contributed to a certain confusion in parts of ICANN, regarding the precise role and function of the NRO when acting as the ASO within ICANN. In particular, it has created significant confusion regarding the separation of roles responsibilities within the NRO between the NRO EC and the ASO AC within ICANN.

Recent post about fake profiles on the ICANN website led ICANN to post information about all of its constituent elements, including the ASO. (see screenshot below) Because only members the ASO AC are listed on the page in the above link, a casual reader, or even someone long steeped in ICANN knowledge might be forgiven for thinking

The names or profiles of the Supporting Organizations and Advisory Committees leadership can be found here:

Address Supporting Organization (ASO)

<https://aso.icann.org/advisory-council/address-council-members/>

the ASO is made up of only the ASO AC members.

#### **4.4. Separate powers of the NRO EC and the ASO AC**

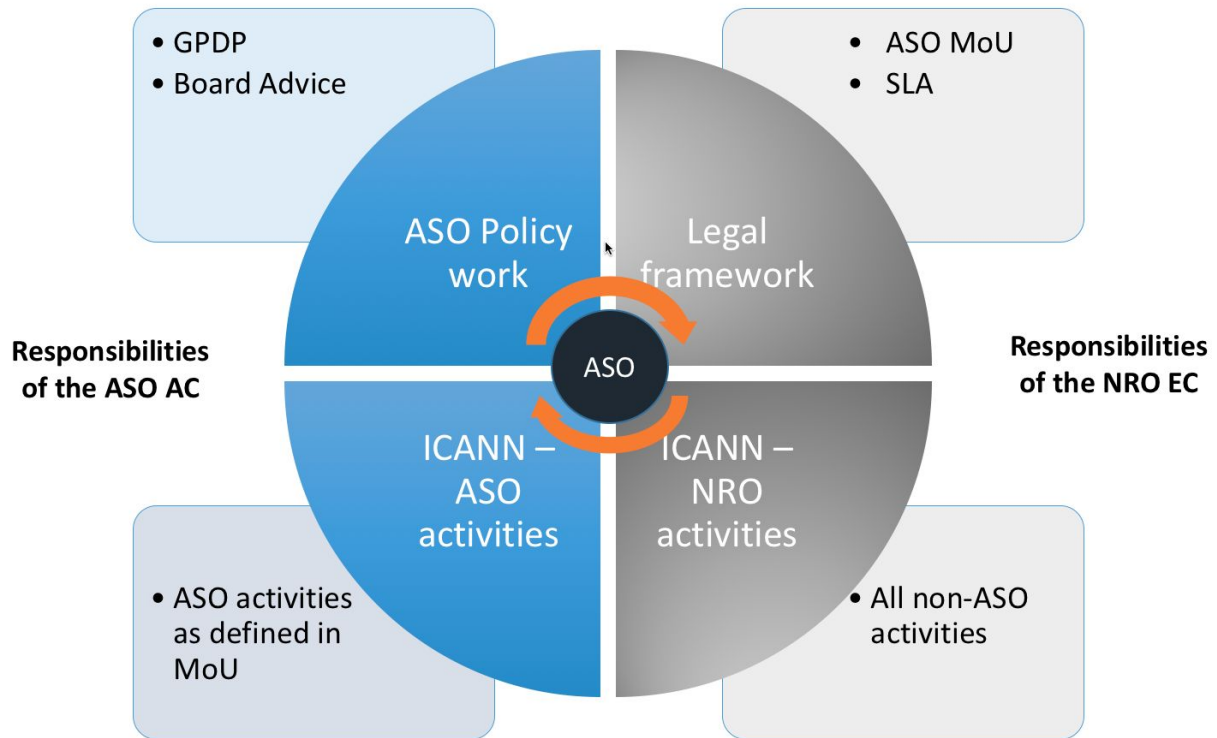
Jointly, ICANN Bylaws and the ASO MoU set up the ASO as what many perceive to be a bicameral body consisting of the NRO EC and the ASO AC. ICANN Bylaws' definition of the ASO is concise and specifies only that the ASO "shall have an Address Council consisting of the members of the NRO Council". The ASO MoU, for its part, establishes that "the NRO shall fulfill the role, responsibilities and functions of the ASO" and, within this framework, that the ASO AC, comprised of the members of NRO NC, will be responsible for the main organisational roles of the ASO, namely:

- Undertaking a role in global policy development;
- Providing recommendations to the Board of ICANN concerning the recognition of new RIRs;
- Defining procedures for the selection of individuals to serve on other ICANN bodies;
- Providing advice to the Board of ICANN on number resource allocation policy, and;
- Developing procedures for conducting business in support of their responsibilities.

According to the ASO MoU, the main function of the NRO EC in the operations of the ASO can be summarised as:

- Providing Secretarial services to support the functions described in the MoU.
- Approving the procedures that are developed by the ASO AC for conducting business in support of their responsibilities.
- Coordinating with the ASO AC regarding the development and ratification of Global Policies in accordance with the Global Policy Development Process.
- In the event of a dispute with ICANN regarding the MoU, arranging arbitration via ICC rules.
- Providing its own Review mechanisms.

The separation of powers within the ASO between the ASO AC and the NRO EC can be represented as follows:



**Source:** ITEMS International

The ASO AC and the NRO EC each have a specific number of roles. However, when a role, responsibility or function that is not specified in the MoU arises, there is uncertainty about which body should assume responsibility.

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**Recommendation # 3:** The NRO should seek to clarify the nature of the ASO in the MoU by adding specific references to the roles of the NRO EC. If the ASO is to have two bodies, this should be stated clearly.

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**Recommendation # 4:** The NRO should adopt one name for the ASO advisory body - either Address Council (AC) or Numbers Council (NC), which should be used throughout the ICANN Bylaws, the ASO MoU and in all other documentation and communications.

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Attachment A of the ASO MoU provides a detailed, step-by-step description of the Global Policy Development Process (GPDP) followed by the ASO. It provides additional information on the separate functions of the ASO AC and the NRO EC in the process of developing global policies. What emerges is that the GPDP is a part ASO, part NRO function. Broadly speaking, the ASO AC is responsible for the latter, ICANN-facing part of the process, once a position of common agreement has been reached by the five RIR communities, and then transferring the policy proposal to the Board of ICANN for ratification.

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**Recommendation # 5:** In the interests of promoting a better understanding of the operations of the ASO, a clearer distinction should be made between the role and functions

of the ASO AC and the NRO EC. In particular, the NRO EC should be more clearly identified as the main coordinating body of the NRO with legal authority and certain enforcement powers regarding the operations of the ASO.

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#### **4.4.1. Differing perceptions of the ASO: ARIN Legal Counsel**

In 2015, ARIN as a member of the NRO, requested an informative memo from their legal counsel regarding the makeup of the NRO and its role in acting as the ASO<sup>11</sup>. This stated that:

*“The NRO is a stand alone body that will negotiate the ASO MoU with ICANN.”  
Finally, the ASO MoU itself recognizes that the NRO and ICANN are distinct entities and disclaims that it imposes any special relationship or duty on either party, “including as an agent, principal or franchisee of any other party.” Thus, the history and public pronouncements of the NRO plainly demonstrate that it is an independent legal entity, not simply a creature of ICANN’s governance.”*

Hence, while the NRO is independent of ICANN, it carries out the role of the ASO according to the ASO MoU within ICANN. Some of the confusion by ICANN participants derives from the fact that the ASO AC is the more visible body to ICANN participants. We see the ASO AC/NRO NC as the subordinate, advisory body while the NRO EC has the oversight role amongst the two. Historically, the EC has been responsible for legal/contractual and operational aspects of the ASO function, whereas the ASO AC/NC has been responsible for global policy aspects.

#### **4.4.2. Relevance of the ASO MoU**

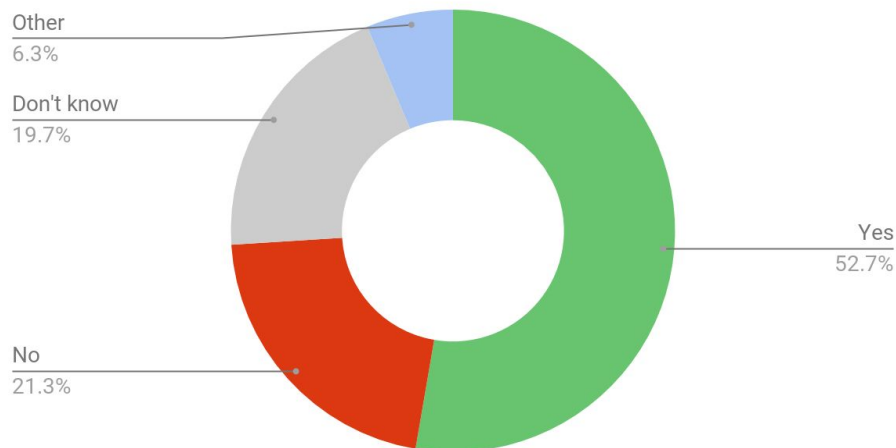
The ASO MoU, in its current form, has stood the test of time. It has served as an accurate description of the limited role and function of the ASO within ICANN, and the mutual responsibilities of the NRO and ICANN.

When asked about the relevance of the ASO MoU, a slight majority of those interviewed (52.7%) indicated that it still provides an accurate description of the role and function of the ASO. Twenty-one per cent indicated that it does not, and a slightly smaller number (19.7%) don’t know.

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<sup>11</sup> Caplin and Drysdale (2015) *NRO’s Status as an Unincorporated Association and Role as an ICANN Designator*  
<https://www.nro.net/wp-content/uploads/ARIN-Memo-re-NRO-Status-as-an-Unincorporated-Association.pdf>

Survey Question [All respondents]: Does the ASO MoU adequately describe the role and function of the ASO within ICANN?



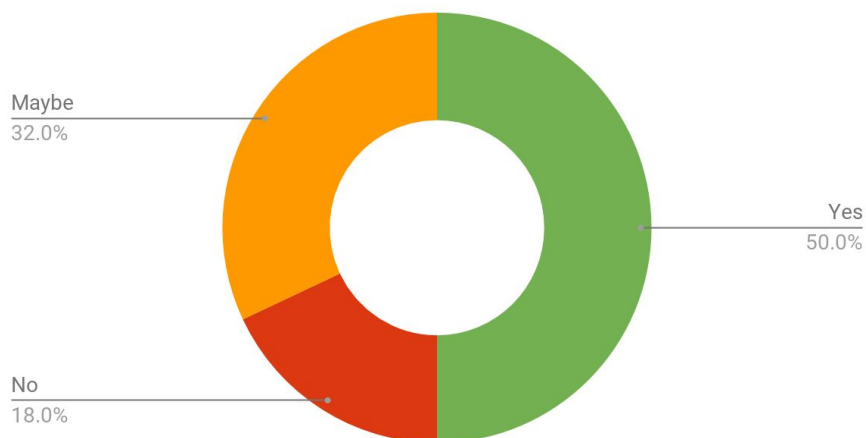
Many of those interviewed, a majority of whom are closely associated with the workings of the ASO, indicated they had limited knowledge of the ASO MoU, or that they had not consulted it in recent years. Their view, paradoxically, was that the MoU is still a solid foundational document that has never had any need to be updated.

However, fourteen years after it was signed, and in view of recent changes in the organisational structure of ICANN, it appears there are certain aspects of the ASO MoU that need to be updated.

#### 4.4.3. Need for the ASO MoU to be updated

When asked whether the rationale for the ASO as spelled out in the ASO MoU needs to be updated post-IANA transition, notably in light of the creation of the ICANN *Empowered Community*, 50% thought that it should, 32% felt that “maybe” it should, and only 18% that it should not.

Survey Question [All respondents]: Does the rationale for the ASO as spelled out in the ASO MoU need to be updated post IANA transition in light of the





We have identified various sections of the ASO MoU where an update seems necessary:

#### **Section 5: Global Policy Development Process**

- **Para 1:** Reference to IANA should be changed to the IANA functions operator.
- **Para 3:** Change wording regarding the ratification by the ICANN Board of global numbering policies, in order to reflect reality of the ASO Rules of Procedure.

Additional clarification is needed regarding the distinct responsibilities of the ASO AC and the NRO EC.

An additional clause should also be added making reference to the Service Level Agreement signed with ICANN in June 2016.

AfriNIC should be added as a signatory.

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**Recommendation # 6:** The NRO and ICANN should update the ASO MoU, acknowledging AfriNIC as an additional signatory, and taking into account mutual responsibilities resulting from the creation of the ICANN *Empowered Community*.

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#### **4.5. Continuing purpose of the ASO within ICANN**

According to ICANN Bylaws, a key objective for ICANN Reviews is to determine whether each Supporting Organisation (SO) or Advisory Committee (AC) has a continuing purpose within the ICANN structure and, if so, whether any change in structure or operations is desirable to improve its effectiveness. The wording of the Bylaws suggests that the question of the “continuing purpose” can be addressed in much the same way for each ICANN SO or AC, using a standardised process. However, this overlooks the ASO’s unique origins and key differences in the way it operates within ICANN which, in our view, call for a somewhat different interpretation of the question of its “continuing purpose”.

For the other ICANN SOs and ACs that, for the most part, came into existence following the the creation of ICANN, the question of their “continuing purpose” points to their ongoing relevance and operational effectiveness within ICANN, short of which it may be assumed that ICANN could take appropriate remedial action. But for the ASO, that came into existence as an ICANN SO in quite different circumstances, following the signing of the first ASO MoU (1999) and the integration of a pre-established and fully operational system of policymaking for address space, the question of “purpose” points to a different organisational reality. In particular, it points to a different course of action if “continuing purpose” is no longer recognized.

Hence, Reviewers have determined that the question of the “continuing purpose” of the ASO relates to the strength and validity of the ASO MoU between ICANN and the NRO. It is about whether each organisation continues to recognize their mutual interest in cooperation going

forward (failing which it is understood that the NRO could function independently of ICANN, or in partnership with another international partner). Finally, it relates to the value that is placed by ICANN and the NRO on maintaining the ASO in place, both in terms of the furtherance of ICANN's mission regarding Internet identifier systems, and the accountability function that is fulfilled on behalf of the global numbering community.

#### 4.5.1. Relative value of the ASO function for ICANN and the NRO

The table below presents the relative value of the of the ASO for ICANN and the numbering community. This is based on Reviewers' perception, and based on what we heard during interviews.

ICANN	NRO
<b>1) Advise ICANN with respect to policy issues relating to the operation, assignment and management of Internet Addresses</b>	
- Since ICANN may be consulted on these issues by Government and/or internal bodies it is in ICANN's interest to provide answers that are in alignment with the numbering community.	- One of the main benefits of participation in ICANN is to ensure that all other stakeholders are regularly informed of numbering policy issues.
<b>2) Define roles and processes supporting global policy development</b>	
- The inclusion of the ASO within ICANN, gives the ICANN organisation additional legitimacy as a global coordinator of policy regarding Internet identifiers.	- Whereas the numbering community could accomplish this role independently of ICANN, participation in ICANN offers greater assurances in terms of transparency and accountability.
<b>3) Provide advice to the ICANN Board on number resource allocation policy</b>	
- Advice provided to the ICANN Board by the numbering community benefits ICANN by raising awareness regarding numbering issues.	- Such advice benefits numbering community since it ensures that ICANN has a full understanding of numbering policy issues.
<b>4) Provision of recommendations to the Board of ICANN concerning the recognition of new RIRs.</b>	
- ICANN has been delegated significant authority to recognize the creation of new RIRs.	- With ICANN responsible for recognizing new RIRs, the NRO can give the assurance of greater transparency and avoid Conflict of Interest issues in the recognition of new RIRs.
<b>5) Defining procedures for the selection of individuals to serve on other ICANN bodies, in particular on the ICANN Board,</b>	
- This provides ICANN with expert volunteers on the Board and various places across the Community.	- Despite mixed opinions, the needs of the community are well served by having 2 Board Members to educate and provide expertise.

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**Recommendation # 7:** Upon completion of every independent Periodic Review, as per Article 8 of the ASO MoU, and insofar as recommendations are made that imply updates to the ASO MoU, the NRO and ICANN should promptly initiate discussions, as per Article 9 of the MoU to determine if the ASO has a continuing purpose within the ICANN structure, and to modify or eliminate the MoU accordingly.

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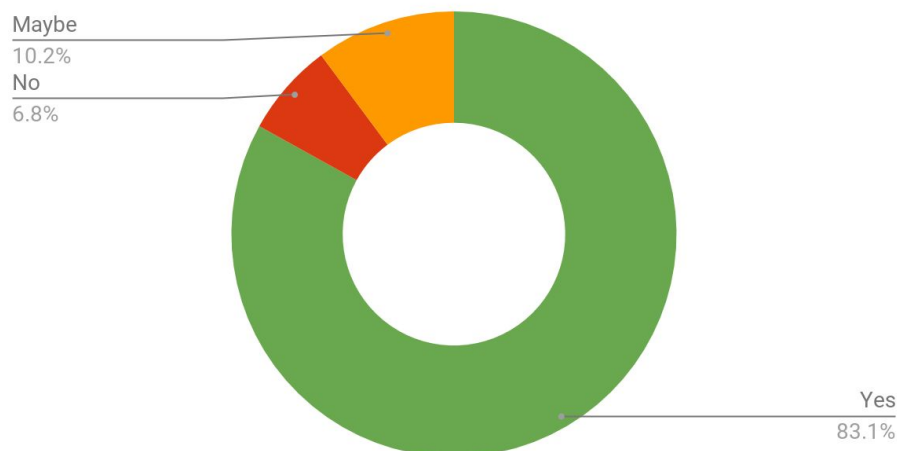
#### 4.5.2. Interview & survey findings: Continuing purpose

Our findings suggest that the ASO is one of the lesser-known Supporting Organisations within ICANN. Yet, at the same time, it is widely perceived to be one of the better-organised and efficient parts of the ICANN system. A majority of those interviewed as part of this Review, including ICANN Board Members, ICANN Executive Staff, NRO/RIR leadership and the ASO Address Council itself, expressed broadly favourable views regarding the way in which the ASO conducts its operations, and a high degree of confidence in its leadership structures.

A large majority of interviewees feel that the ASO does have a continued purpose within ICANN, that it should remain as a Supporting Organisation, but should only participate in ICANN processes that are directly in scope for the Internet Numbering Community.

A strong majority of interviewees (83%) responded that the ASO does have a continuing purpose, a further 10% assert that it may have, and around 7% that it does not.

Survey Question [All respondents]: Does the ASO have a continuing purpose in the ICANN structure?



This indicates a high degree of confidence in the ongoing partnership with ICANN.

#### 4.5.3. Minority view on continued purpose

The minority view however is quite interesting and comes mainly from senior, experienced members of the global numbering community. These people firmly believe that the operations of the ASO exercise are a suboptimal use of time and resources and that the numbers community could function perfectly well independently of ICANN. This quote from a senior member of the numbering community sums up this view quite succinctly:

*“When thinking about the ASO, its effectiveness and construction, we should first ask, “why does the RIR community need to participate in ICANN at all? How does network operations benefit from ICANN being at all involved in the work the RIRs perform? ICANN was established in the late 1990s as part of an effort to decentralize and de-Americanize certain control points of the network, namely the activities of the IANA. It is almost 20 years later, and in the addressing community specifically, there is an argument that we don’t need ICANN or even an IANA. Large allocations of IPv6 aggregates, AS number blocks, and even remnants of IPv4 aggregates, can easily be cooperatively managed by the five RIRs. The NRO is well built, has full-time staff, and is accountable to the addressing community. So bringing this back to the ASO, what is the real benefit of the ASO to the addressing community? Why do 15 people need to be on it - what is it they deliver that directly helps engineers and leaders operate their networks? The answer is there is no point to the ASO except to select ICANN board members, and there is no direct benefit that ICANN board members, or ICANN itself, provides to the addressing community.”*

Others we interviewed saw this as a valid argument, but felt that due to the recent commitment to the *Empowered Community*, now was not the time to “walk away” from ICANN. A significant number of people we spoke to about the topic suggested that changing the relationship may be desirable at some point in the future.

More important to most respondents than the recent political commitment, was the fact they place a high value on being part of the larger eco-system despite ICANN’s work being largely focused on names. Often expressed as a concomitant to this view was the idea that the numbers community should not have to be involved in the names issues to be a part of ICANN.

Before the *Empowered Community* Bylaws version, a general overview of the functions of each body was that the ICANN Board ratifies the global policies of the Numbering Community and in return, they got advice and two Board Members (and a NomCom Member) in return. In this configuration a severing of the relationship was more conceivable, however inconvenient it may have been.

After the creation of the *Empowered Community*, the potential severing of the relationship is seems a lot less likely although it is still a possibility. We do not see the advantage a significant structural change to the relationship at this time. If the *Empowered Community*

and other ICANN obligations become more onerous to the numbers community over time, they will want to think about adjusting the status quo.

## **5. Organisational effectiveness of the ASO**

In this section we consider how effective the ASO has been with regards to its purpose. According to the ASO website the purpose of the ASO is to “*review and develop recommendations on Internet Protocol (IP) address policy and to advise the ICANN Board*”. <https://aso.icann.org/about-the-aso/>

### **5.1. ASO Address Council**

The ICANN Bylaws say;

- A. The ASO shall have an Address Council, consisting of the members of the NRO Number Council.
- B. The Address Council shall nominate individuals to fill Seats 9 and 10 on the Board. Notification of the Address Council’s nominations shall be given by the Address Council in writing to the EC Administration, with a copy to the Secretary, and the EC shall promptly act on it as provided in Section 7.25.

The ASO MoU adds additional roles to the ASO AC:

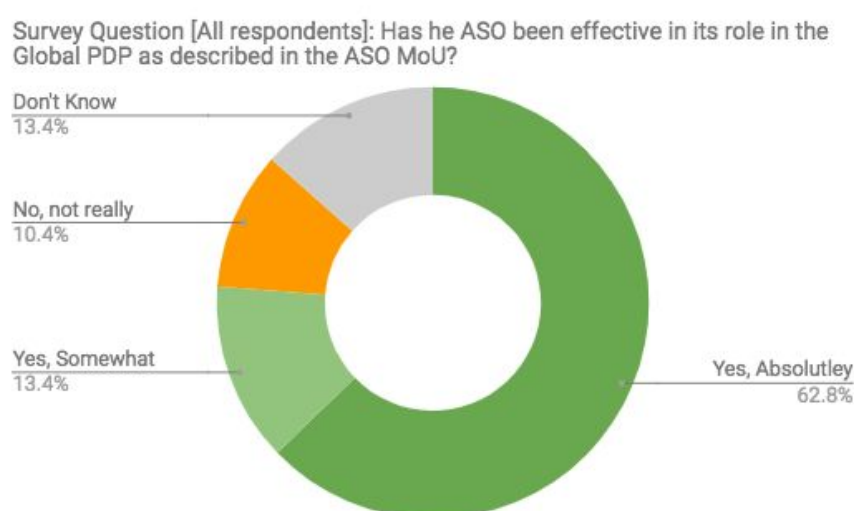
“The ASO Address Council is responsible for the organizational roles of:

- 1. undertaking a role in the global policy development process as described in attachment A of this document.
- 2. providing recommendations to the Board of ICANN concerning the recognition of new RIRs, according to agreed requirements and policies as currently described in document [ICP-2].
- 3. defining procedures for selection of individuals to serve on other ICANN bodies, in particular on the ICANN Board, and implementing any roles assigned to the Address Council in such procedures.
- 4. providing advice to the Board of ICANN on number resource allocation policy, in conjunction with the RIRs.
- 5. developing procedures for conducting business in support of their responsibilities, in particular for the appointment of an Address Council Chair and definition of the Chair’s responsibilities. All such procedures shall be submitted to the Executive Council of the NRO for approval.”

The first, second and fourth of these roles are rarely carried out. This is a function of the frequency with which global policies, new RIRs and advice to the Board regarding IP address policies are actually required.

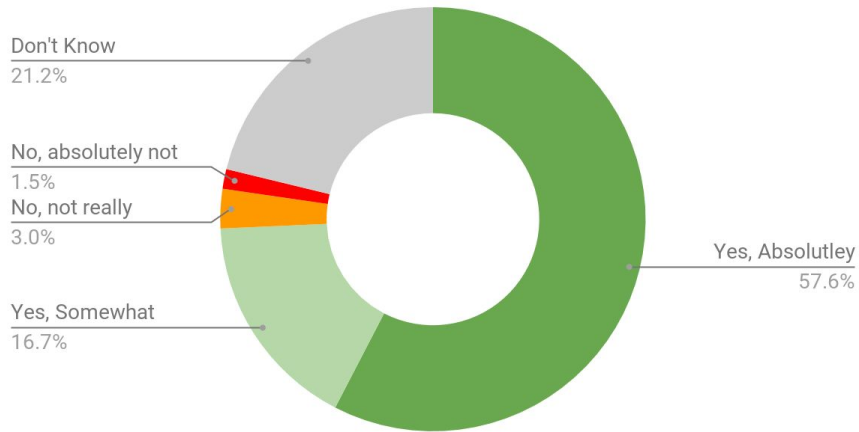
The main role of the ASO AC in most years seems to have been to appoint individuals to the ICANN Board of Directors and NomCom, and to develop their own procedures. There were a number of people who commented that having a body that does nothing of policy substance most of the time seemed like a waste of resources, but was an essential exercise nonetheless.

When asked “Has the ASO AC been effective in their role in the global PDP as described in the ASO MoU?” over three quarters of respondents responded positively. While 25% seems like a large number of negative responses, many of those who said “no” added that it was because there have not been any global policies in several years, so their answer meant “no, there haven’t been any policies to ratify, so how could they be effective at a job they aren’t doing”.



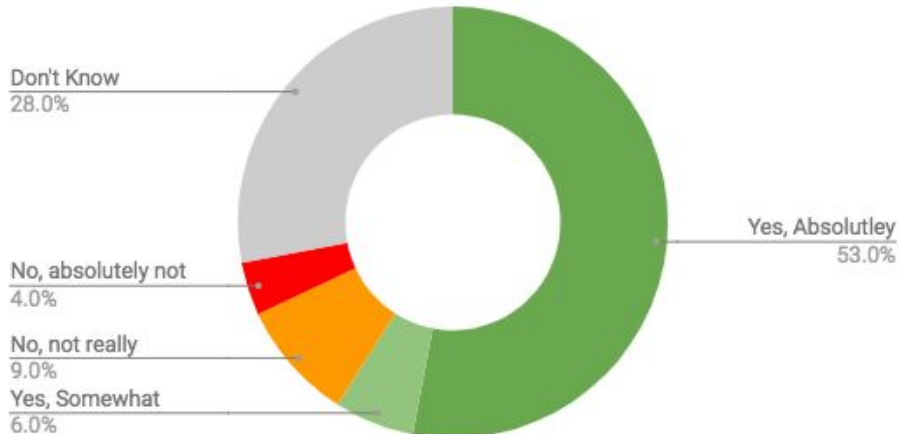
A similar pattern was seen in other questions about these rarely performed roles, for example, the question: “Has the ASO been effective in providing advice to the Board of ICANN on number resource issues per the ASO MoU?”, where a number of negative replies can be attributed to the fact that the Board almost never asks for advice from the ASO AC or the NRO EC. Over seventy four percent of respondents responded positively to this question, while 21% responded that they “didn’t know”.

Survey Question [All respondents]: Has the ASO been effective in providing advice to the Board of ICANN on number resource issues per the ASO MoU?



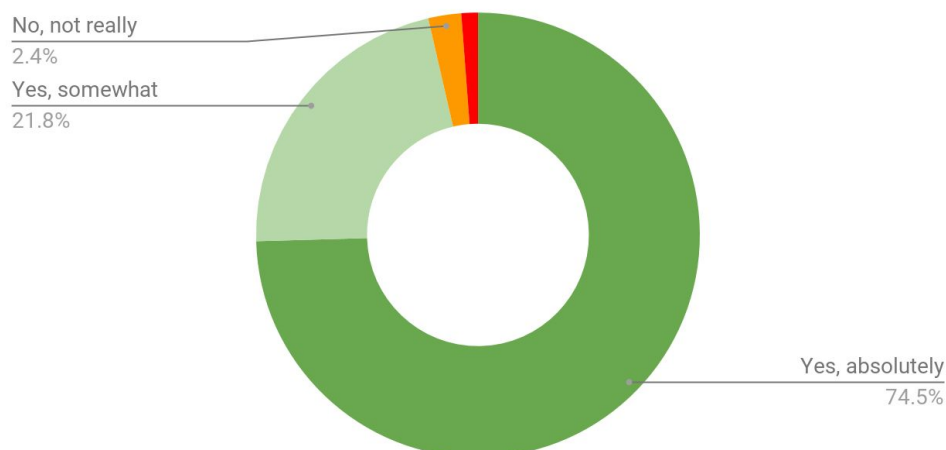
On the question: “Has the ASO been effective in providing recommendations of the Board of ICANN concerning the recognition of new RIRs?”, 59% of respondents replied positively (“yes, absolutely” or “yes, somewhat”), while only 13% reacted negatively, and 27% responded “don’t know”. The rest argued for a NA -type of response.

Survey Question [All respondents]: Has the ASO been effective in providing recommendations of the Board of ICANN concerning the recognition of new RIRs?



On the last role, that of selecting people for other ICANN bodies, (the one that the ASO AC regularly carries out), the response is much more positive, with 95% reacting positively overall, and less than 5% giving negative replies. So the perception is that the ASO AC is very effective in carrying out the only role they are called upon regularly to do, as one can see in the chart below:

Survey Question [All respondents]: Has the ASO been effective in defining and implementing procedures for the selection of individuals to serve on other ICANN bodies?



In summary, the ASO AC is seen as effective in their limited narrow scope of activities that they are charged with performing. In recent years, there have been tasks that the Internet Numbering Community occasionally need to address that fall outside the scope of the ASO AC, and are not taken up by the ASO AC directly because the MoU doesn't cover them.

On the other hand, we do see that the ASO AC does have the role to appoint people to various ICANN Bodies given to it by the MoU, but the question "Where does the list of bodies end" has only recently been asked inside the ASO. We address these additional tasks and bodies shortly.

## 5.2. Global Policy Development Process

The Global Policy Development Process (GPDP) is a description of the roles and processes supporting global policy development, including the relationship between the Internet addressing community (represented by the NRO) and ICANN within the operation of this process. Somewhat confusingly, official ASO documentation includes two separate and slightly different descriptions of the GPDP. These are included in:

- Attachment A of the ASO MoU, the authoritative version<sup>12</sup>
- Operating Procedures of the ASO AC<sup>13</sup>

### 5.2.1. ASO MoU - Attachment A

Attachment A of the ASO MoU is a step-by-step description of the Global Policy Development Process followed by the ASO. It was developed and published online at the same time as the ASO MoU, on 29 October 2004. It has not been updated since.

<sup>12</sup>ASO MoU Attachment A: <https://archive.icann.org/en/aso/aso-mou-attachmentA-29oct04.htm>

<sup>13</sup> Operating Procedures of the ASO AC: [https://aso.icann.org/documents/operational-documents/operating-procedures-ASO-AC/#A\\_6\\_Global\\_Policy\\_Development](https://aso.icann.org/documents/operational-documents/operating-procedures-ASO-AC/#A_6_Global_Policy_Development)



Reviewers have considered each step of the PDP and concluded that it is still a valid and useful PDP. However, certain sections lack a formal procedure and/or may require updating.

We have identified three stages in the GPDP as described in the MoU that, to our knowledge, still require a formal procedure. These are:

**Step 12:** *[When a global policy has been rejected or objected by the ICANN Board, then]The ASO Address Council, in conjunction with the RIRs and working through agreed procedures, shall consider the concerns raised by the ICANN board, and engage in a dialogue as appropriate with the ICANN Board.*

**Step 15:** *If the resubmitted proposed policy is rejected for a second time by ICANN, then the RIRs or ICANN shall refer the matter to mediation using an agreed procedure to resolve the matter.*

**Step 16:** *Through the provisions of an agreement to be executed between the RIRs and ICANN, it is recognized that the ICANN Board has the ability to request that the ASO Address Council initiate a policy development process through the RIRs,*

We have found no evidence of the existence of these procedures or agreements in our document review and conclude that they may not have been produced. While they have, to our knowledge, never been needed, it may be useful to formalise such agreements or procedures with ICANN as part of an updated MoU, or drop them from the MoU.

### **5.2.2. Operating Procedures of the ASO AC**

A separate and longer description of the Global Policy Development Process is given in Section 6 of the *Operating Procedures of the ASO AC*. This duplication, and the fact that there are a number of inconsistencies between the two descriptions of the GPDP can seem confusing to observers like ourselves.

We have identified the following modifications to the GPDP as described in the ASO AC Operating Procedures document that are not reflected in the ASO MoU:

- **Section 6.3** concerning the role of Policy Proposal Facilitator Teams (PPFT)
- **Section 6.4.1** concerning global policy proposals that are submitted directly to an RIR forum.
- **Section 6.4.2** concerning global policy proposals that are submitted directly to the ASO AC.
- **Section 6.4.3** concerning global policy requests that are submitted directly by the ICANN Board to the Address Council.
- **Section 6.5** concerning the discussion phase of global policies at the level of the RIRs.
- **Section 6.6.1** concerning the Address Council Review of global policies.

Although we can assume that the Operating Procedures are updated on a more regular basis, it is not clear which version of the GPDP is used as the operational version. It is clear from the foundational nature of the MoU that it is the official text.

To remove any doubt about the primacy of either description, the ASO AC in conjunction with the NRO EC could simply decide to drop Attachment A to the ASO MoU, or ensure an identical description is used in both documents. Our view is that the first option would be simpler from an administrative point of view, in view of the fact that the ASO MoU is only updated on very rare occasions.

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**Recommendation # 8:** The ASO should adopt a single, complete authoritative description of the Global Policy Development Process to be used for global numbering policies. The same description of the Global PDP should appear in Attachment A of the ASO-MoU and the relevant section of the Operating Procedures of the ASO AC (Currently Section 6). Alternatively, for the sake of simplicity the ASO could decide to drop Attachment A of the ASO MoU.

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### **5.2.3. ASO MoU - Attachment B**

Attachment B of the ASO MoU is a short description of the temporary procedure for the appointment of ASO AC members in the transition period between the old and the (then) new Address Council. This document no longer has any purpose and may be archived.

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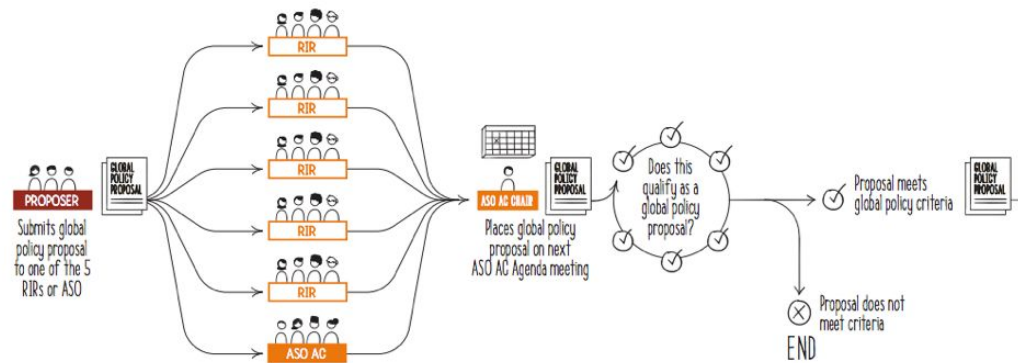
**Recommendation # 9:** The ASO should remove Attachment B from the ASO MoU.

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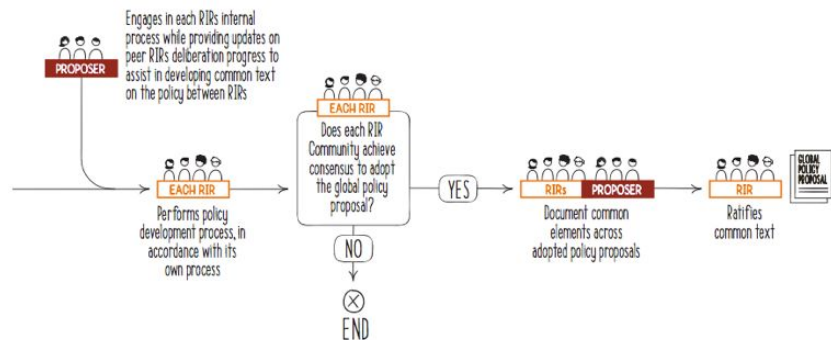
In the course of research Reviewers came across the following draft infographic representing the stages in the ASO GPDP, apparently produced by ICANN. This would appear to be consistent with the GPDP as described in the ASO AC Operating Procedures. We view such graphic representations of complex processes as helpful to the communities that need to use them and if the ASO finds it accurate, to publish it prominently on the ASO website.

## ASO Global Policy Development Process (partial representation)

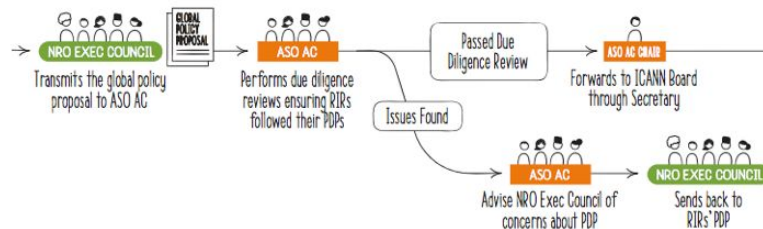
### 1 GLOBAL POLICY PROPOSAL SUBMISSION



### 2 RIR POLICY APPROVAL PROCESS



### 3 POLICY RATIFICATION PLANS



Source: ICANN: <https://www.icann.org/en/system/files/files/draft-process-aso-pdp-12jun17-en.pdf>

### 5.3. Consolidated IANA Stewardship Proposal (CRISP)

Reviewers note that the process leading up to the termination of the IANA contract between ICANN and the NTIA on 1 October 2016, and the ensuing establishment of the ICANN *Empowered Community*, involved a considerable number of volunteers from the global numbering community who came together to form the CRISP Team in order to define a modified framework covering relations between the Numbering Communities and ICANN.<sup>14</sup>

This work was conducted by community members with the support of the NRO, and is beyond the scope of this Review to assess. The work of the CRISP team<sup>15</sup> is a good example of how the Numbering Community was able to come together on an ad hoc basis in response to requests from ICANN that are outside the ASO AC's narrow remit. It shows the adaptability and resourcefulness of numbering community.

Since there are no guidelines regarding the amount and type of work in this category (outside the ASO AC's remit) that the NRO can take on, we are only able to make a general observation about the way in which this work was conducted in the interests of the numbering community as a whole.

### 5.4. Service Level Agreement (SLA)<sup>16</sup>

On 29 June 2016, during the ICANN 56 meeting in Helsinki, the five RIRs and ICANN signed a service level agreement (SLA) for the IANA numbering services. This agreement documents the arrangements for the provision by ICANN of IANA numbering services following the IANA stewardship transition. The SLA came into effect with the termination of the IANA contract, on 30 September 2016.

*“The signing of the SLA has sort of replaced the MoU as a foundational document for the relationship between the RIRs and ICANN”* (ICANN Board Member)

The SLA was written by the five RIR staff but was based upon the “IANA Service Level Agreement Principles” developed by the CRISP Team. This “relationship by contract” is another way that the ASO is unique in the ICANN Community. The numbering community prefers to have relationships established by written agreements to reduce ambiguity.

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<sup>14</sup>On October 16, 2014, the Internet Number Community proposed the formation of the CRISP Team to develop a single Internet Number Community proposal to the IANA Stewardship Coordination Group (ICG). Established around a model similar to the community-based NRO Number Council, the CRISP Team comprises three community members from each of the RIR regions (two community members and one RIR staff). The selection of the CRISP Team members from each region was facilitated via transparent but distinct processes within each RIR.

<https://www.nro.net/wp-content/uploads/ICG-RFP-Number-Resource-Proposal.pdf>

<sup>15</sup>

<https://www.nro.net/nro-and-internet-governance/iana-oversight/consolidated-rir-iana-stewardship-proposal-team-crisp-team/>

<sup>16</sup><https://www.nro.net/wp-content/uploads/SLA-Executed-ICANN-RIRS.pdf>

The new body that was created to oversee this agreements ongoing implementation is the IANA Service Level Agreement Review Team/Committee. This body, like CRISP, could not have been carried out by the ASO AC since it was not a role specifically granted to the ASO AC in either the bylaws or the MoU.

### **5.5. Article 6: *Empowered Community***

Section 6.1 of ICANN Bylaws on the Composition and Organisation of the *Empowered Community* states that Each Decisional Participant shall, except as otherwise provided in Annex D, adopt procedures for exercising the rights of such Decisional Partners pursuant to the procedures set forth in Annex D. These include:

1. who can submit a petition to such Decisional Participant,
2. the process for an individual to submit a petition to such Decisional Participant, including whether a petition must be accompanied by a rationale,
3. how the Decisional Participant determines whether to accept or reject a petition,
4. how the Decisional Participant determines whether an issue subject to a petition has been resolved,
5. how the Decisional Participant determines whether to support or object to actions supported by another Decisional Participant, and
6. the process for the Decisional Participant to notify its constituents of relevant matters.

We understand that legal analysis work is ongoing on the *Empowered Community* issues and that the NRO EC in particular is waiting for this report to inform some of the *Empowered Community* questions. Reviewers feel that the details of these answers are out of scope for this review and should be left to representatives of the Community, or the RIR Communities themselves, but we await the legal analysis as potentially useful input to our Final Report.

The “Who should be the Decisional Participant?” question was discussed with many of the Interviewees, and ICANN bylaws are clear that it is the ASO who is the Decisional Participant. This issue is further discussed in section 5.7 below.

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**Recommendation # 10:** The ASO MoU should be updated to reflect the new reality of the *Empowered Community* and specify that the roles and responsibilities within the ASO must be clearly defined.

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Part of this work will include the scope of issues that the ASO (NC and EC) take on. Given the increasing demands on the NRO EC and the ASO AC from the rest of the ICANN Community, this seems to be an ideal opportunity to limit the type of activities that the ASO bodies participate in in an ICANN context. For example, we see in the minutes of the most recent NRO EC meeting that members of the ASO AC are active in the new gTLD Auctions Proceedings Working Group.

We understand it is difficult to say no to ICANN staff and other SO/AC Chairs when they make requests for participants and that many members of the ASO AC are very interested in the wider issues beyond those of the naming community. However we also see the very real

potential conflict of interest that has been described to us by some in the numbering community in sending representatives to ICANN bodies that deal with naming issues and other non-numbering issues. RIR Members pay their RIR for numbering services and many of these Members **also** have interests in naming issues. These organisations adequately represent their own interests in ICANN without having any potentially conflicting representation by those involved in the numbering communities. We have discussed at length with a range of folk inside ICANN and the numbering community and the opinions we have gotten suggest that the numbering community representatives should adhere to a tightly scoped set of issue areas that affect their work due to this very real potential Col.

In other words, we feel that groups like the gTLD Auctions Proceedings WG (as just one example), are well outside the scope of the ASO and are a distraction from the mission of the ASO. In fact we have heard repeatedly from a large majority that both ASO bodies are currently facing increasing workloads due to demands/requests from other ICANN bodies. This issue has in the past few years been exacerbated by the continued growth of ICANN and of course, the IANA transition, with its associated workload (CRISP, IANA Services Review Team/Committee), and currently the *Empowered Community* procedural issues that need to be addressed).

We have also heard very clearly that the *Empowered Community* work is only a small fraction of the new workload that is being asked of the ASO bodies. For further examples of work that may be out of scope for the ASO, here is a partial list of Working Groups/Teams that the ASO has been asked to provide volunteers to in recent months and the number of volunteers that have been assigned:

**Table 1: Cross Community Working Groups**

Cross-Community Working Groups (CCWG)	ASO volunteers
Enhancing ICANN Accountability (CCWG-Accountability)	5
Internet Governance (CCWG-IG)	3
New gTLD Auction Proceeds (CCWG-Auction Proceeds)	3
ICANN Academy working group	1
Use of Country and Territory Names as TLDs (CCWG-UCTN)	0

**Table 2: Special Review Teams**

Specific Review Teams	ASO volunteers
Root Zone Evolution Review Committee	3
Security, Stability, and Resiliency (SSR2)	3
Accountability and Transparency (ATR3)	0
Competition, Consumer Choice, and Consumer Trust (CCT)	0
Registration Directory Services (RDS)	0

**Table 3: GNSO PDP Working Groups**

GNSO Policy Development Process Working Groups:	ASO volunteers
Curative Rights Protections for IGOs/INGO	0
New gTLD Subsequent Procedures	0
Next Generation gTLD Registration Directory Services	0
Review of All Rights Protection Mechanisms in All gTLDs	0

**Table 4: Other working groups and committees**

Other (Various)	ASO volunteers
RSSAC Liaison to ICANN Board	1
Budget Working Group	2
Empowered Community/Empowered Community Administration	1
Multistakeholder Ethos Award Community Selection Panel	2
Nominating Committee	1

### 5.5.1. Options for reducing the workload on the ASO

We discussed this central issue at length with interviewees and considered a number of ideas that may help reduce the workload. We various scenarios including;

1. Converting the ASO from an ICANN Supporting Organisation (SO) to an Advisory Committee (AC),
2. Moving the numbering community into a model that the IETF currently uses in ICANN, and various permutations of this model,
3. Severing the relationship with ICANN altogether.

However, at this stage, we do not think that any of these alternatives model have any compelling advantages over the current organisational structure of the ASO.

However, we do see a few changes in method of operation that may ease the ICANN workload of the ASO bodies. We have referred to this model as “*Status Quo & just say no*”. It involves tightly scoping the issue areas that the ASO bodies are allowed to work on (as the ASO AC roles are tightly scoped in the MoU) and explaining to the other ICANN constituent bodies that issue areas outside the scope of the ASO cannot be worked on by either ASO body.

However, scoping the work areas of the ASO is a proposition that may be “out of scope” for this review. We will follow ASO AC and NRO advice on this issue.

A few areas that we suggest may be in scope are:

- **ICANN Budget:** Since the NRO contributes to ICANN financially this is an issue area that should be monitored by the NRO.
- **Accountability:** This is a debatable issue area for ASO consideration since the ASO is accountable to its own community in a variety of ways. There was a strong suggestion made by several interviewees that it does not need to concern itself with the Accountability of ICANN writ large. We note many ASO appointees to the current WorkStream 2 of the CCWG-Accountability are active. So perhaps allowing them to complete their work and then disengaging from this issue area is a good solution.
- **WHOIS:** Many attempts have been made over the years to revamp WHOIS. Since the Numbering community registries use WHOIS as a core part of their work, we suggest the ASO representatives monitor all working groups that pertain to new versions of the protocol, but not participate in groups whose focus is WHOIS in the naming context.
- **Issues that affect rDNS** - Since the RIRs are responsible for much of the reverse DNS tree, they have a vested interest in the utility of the DNS. While the NRO as a larger entity than just the ASO has their own Inter-RIR Working groups whose members are involved in DNS operations and DNS protocol development, any global policy work touching on the reverse tree might be in scope for the ASO.

## 5.6. Responsibility for role of Decisional Participant

Section 6.3 of ICANN Bylaws on the EC Administration states that the Decisional Participants in the EC

*“shall act through their respective chairs or such other persons as may be designated by the Decisional Participants. Each Decisional Participant shall deliver annually a written certification from its chair or co-chairs to the Secretary designating the individual who shall represent the Decisional Participant on the EC Administration.”*

In addition, Article 6, Section 6.1 of the bylaws says, in part;



*(e) Decisional Participants shall not transfer their right to be an associate of the EC. Any attempted transfer by any Decisional Participant of its right to be an associate of the EC shall be void ab initio.*

This suggests to us that the two bodies of the ASO may be unable to share the Decisional Participant role, however much this may be desired.

We heard there are situations in which it may appear more appropriate for the ASO AC or the NRO EC to assume the role of Decisional Participant. For example, since the ASO AC chooses individuals to sit on the ICANN Board, it seems logical to some of the interviewees we spoke to that the ASO AC should have the role that deals with recall of Board Members.

However, since the majority of scenarios that will require action by the designated “Associate” (who *represents the Decisional Participant on the EC Administration*) are “operational” in nature and therefore historically the purview of the NRO EC, we have come to the conclusion, that if legal advisors agree that this role cannot be divided, the NRO EC should, in all cases, be the DP.

#### **5.7. Designated representative of the ASO as Decisional Participant**

Our understanding is the Chair of the NRO EC currently acts as the designated representative of the ASO as part of the *Empowered Community*. We have considered three alternative “power sharing” options for the appointment of the designated representative, as follows:

##### **Trial Balloon #1: Executive Secretary of the NRO represents the ASO**

The review team assumes that an interpretation from the RIR legal counsels will be sought on this issue, however, in the absence of such advice, we did consider one way the DP role could be shared by both bodies of the ASO if desired. It is possible the Executive Secretary of the NRO carry out the role of representing the ASO as the DP. This role could then take instructions from the ASO AC on certain matters and take instruction from the EC on others. The entire range of scenarios where Empowered Community powers could be exercised would have to be developed so the Executive Secretary would have an “if x, do y” guidelines to follow, but if the “bicameral” ASO feels strongly that the AC should exercise some powers and the EC other powers, this is perhaps one potential way to “finesse” the arrangement. The advantage would be to spread the workload amongst both bodies. The downside would be potential for further confusion about who does what.

##### **Trial Balloon #2: Joint exercise of the DP role**

Another potential way to finesse the question of which part of the ASO takes on the DP role is that it can be a joint power they exercise. In other words, all 20 people in the AC

and EC meet as the ASO to discuss the DP issues. While this would require extensive coordination amongst the 20 NRO EC and ASO AC Members, it could absolutely be done via teleconference and/or at the annual meetings of the ASO where this group of 20 already gathers for an all day meeting.

### **Trial Balloon #3:**

A third potential method is also possible that allows for “sharing of the responsibility”. It would require that the Chair of the ASO AC rotates to match the EC Chairpersonship so the ASO Chair is the DP representative, but they take instructions from the unanimous decisions of the EC, whose chair is also from the same region. In this way the EC Chair, can say to the ASO AC Chair, “this decision can be made by the AC, take your direction from them on this issue”.

The appointment of an individual to serve as a spokesperson or “Associate” for the ASO as a Decisional Participant in the EC should be a high priority for the ASO. We recommend the appointment of the ASO spokesperson for the Empowered Community should be made on an annual basis, rotating between the five global regions. This will require the delivery of an annual certification according to the ICANN bylaws Section 6.3. EC ADMINISTRATION (a);

*“written certification from its chair or co-chairs to the Secretary designating the individual who shall represent the Decisional Participant on the EC Administration.”*

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**Recommendation # 11:** The ASO should adopt a procedure for appointing an individual to represent the ASO as a Decisional Participant on the EC Administration.

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The responsibilities of the person appointed to be the Decisional Participant spokesman for the ASO may include:

- Participation in Approval Action Community Forum and all related activities.
- Procedure for exercise of EC’s right to approve Approval Actions
- Procedure for exercise of ECs right to reject specified Actions
- Rejection action
- Community Forum
- Rejection of a Rejection Action

Procedures regarding the removal of ICANN Board Directors and Recalling of the Board.

- NomCom Director Removal process
- SO/AC Director Removal Process
- Board Recall Process
- Community IRP

- Community Reconsideration Request

The RIRs have competent legal staff who can jointly determine which of these roles are mandatory, and which are not.

As an example of what is not absolutely mandatory, we note that the description of the IANA Function Review in Annex D of the bylaws says;

*“(I) One liaison who may be appointed by the ASO; and”*

gives the ASO an out to say “no” to sending a volunteer to an IFR. Since the IANA Services Review Team already exists to oversee the SLA, there probably should never be a case where the the ASO sends a volunteer due to the appearance or potential (or very real) Conflict of Interest described above.

The same quote is used to describe the ASO role in a Separation Cross-Community Working Group (SCWG) so the “may be appointed” language allows the ASO to decline to participate in these groups as well using the same rationale.

## **5.8. Executive Secretary Role**

On a related note, in addition to the Decisional Participant role, we see that there is a need to identify a single Point Of Contact for all of ICANN (Staff, Board and other SOs/ACs) to communicate with the ASO.

There are multiple contact points (ASO AC Chair, ASO Vice Chair, NRO EC Chair, NRO Executive Secretary) that ICANN participants use to contact the ASO folks. Part of this comes from confusion regarding which role account is the appropriate one for ASO business. We think that a single Point of Contact for the entire ASO should be established and communicated to all branches of ICANN to eliminate confusion around who to reach for which responsibility.

We suggest that the Point of Contact for all ASO business be the NRO Executive Secretary ([secretariat@nro.net](mailto:secretariat@nro.net) or [exec-secretary@nro.net](mailto:exec-secretary@nro.net)?). This Point of Contact will need to establish procedures to forward communications to the appropriate parties within the ASO.

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**Recommendation # 12:** Establish one Point of Contact (PoC) for the entire ASO and communicate that PoC to the entire community. This PoC will need to establish procedures for forwarding communications to appropriate parties.

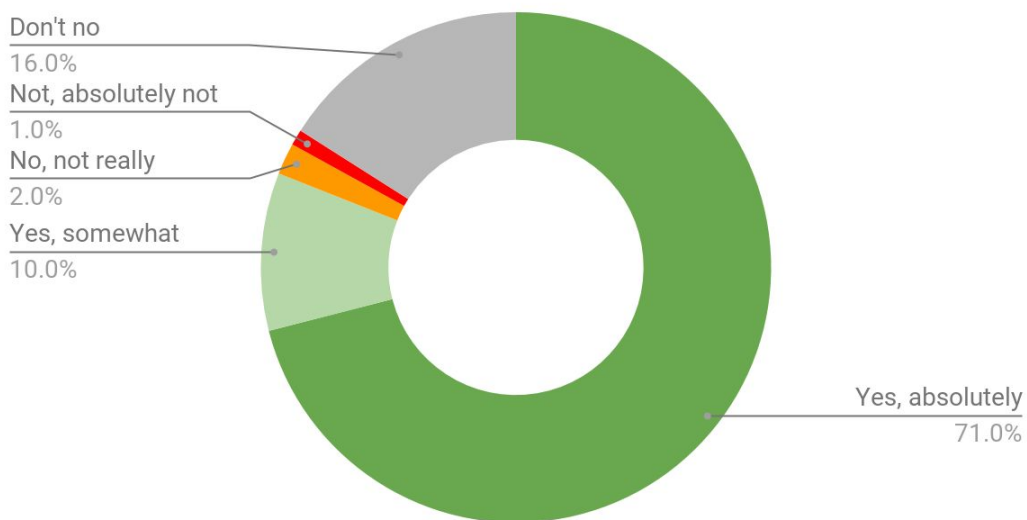
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## 6. Operational effectiveness of the ASO

As we have said above, the NRO and RIRs support the ASO with a significant amount of staff time and travel support resources.

We asked all interviewees if this support was sufficient and consistent with the needs of the ASO. Seventy-one per cent of respondents said “Yes, absolutely”, and a further 10% said “Yes, Somewhat”. So 81% responded positively, 14% said they “didn’t know” and only 5% responded negatively. In short, the Executive Secretary, the NRO EC and RIR staff are seen as doing an excellent job in support of the ASO.

Survey Question [All respondents]: Is the support provided by the NRO and the RIRs to the ASO-AC sufficient and consistent with the needs of the ASO?



### 6.1. Operating Procedures of the ASO AC

There are complete, but frequently evolving ASO AC Procedures documented at: <https://aso.icann.org/documents/operational-documents/operating-procedures-ASO AC/>

ASO New Operating Procedures are being developed in reaction to the *Empowered Community* roles taken on by the ASO as a Decisional Participant. As Reviewers, we would like to examine these, but understand that our report may be input to those new procedures. We understand that we are in some sense reviewing a “moving target” due to the evolution of the ICANN Community and are happy to opine on ASO AC procedures and indeed suggest procedures for the ASO as a whole. We are careful to note these opinions, while considered, should not be substituted for those of the Community or those who have been (s)elected to represent the numbering community.

### 6.1.1. Duties of the ASO AC Chair / Vice Chair

We do not see that the duties of the Chair/Vice Chairs are enumerated in the ASO AC Operating Procedures, we think this may be a useful feature for future Chairs and Vice Chairs to be able to read.

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**Recommendation # 13:** Duties of the Address Council Chair and the Address Council Vice-Chairs need to be added to the ASO AC Operating Procedures.

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### 6.1.2. Rotation of the Chair annually

One suggestion made to us during our review is that the ASO Chair and Vice Chair roles rotate on an annual basis, as do the NRO EC roles. In addition to providing the benefits of term limits to the ASO Chair, this model of operation allows the spreading of the workload amongst a larger group of people. In addition, one long-serving ASO AC Member told us that in the original ASO, there was no Chair, and that after the introduction of a Chair, communication from other parts of ICANN and the ASO sometimes were done exclusively with the Chair to the detriment of overall communications. He said;

*“The AC could be more efficient if we were not so reliant on the management function of the Chair and Vice-Chair. Function adds resilience to communicate with the outside, but creates a tendency for the other members of the AC to sit back. Eliminating the Chair and Vice Chair could reduce this tendency within the ASO AC. The Chair creates a focal point.”*

While we are not yet ready to recommend the elimination of the Chair and Vice Chair roles, we think the idea of rotating the Chair (and Vice Chairs) annually on the same basis as the NRO EC roles has merit and should be part of the consultation that will follow our final report submission.

In this scenario, the ASO AC/NRO NC Chair would have to be elected from among the three people that come from the region the incoming NRO EC Chair is from. One Vice Chair would have to be chosen from amongst the three from the region that the next year's NRO EC Chair will come from and the 2nd Vice Chair would be elected from the region that will produce the NRO EC in two years' time.

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**Recommendation # 14:** The ASO AC should implement an annually rotating Chair and Vice Chair system to match the rotation of the NRO EC Chair/Secretary/Treasurer roles.

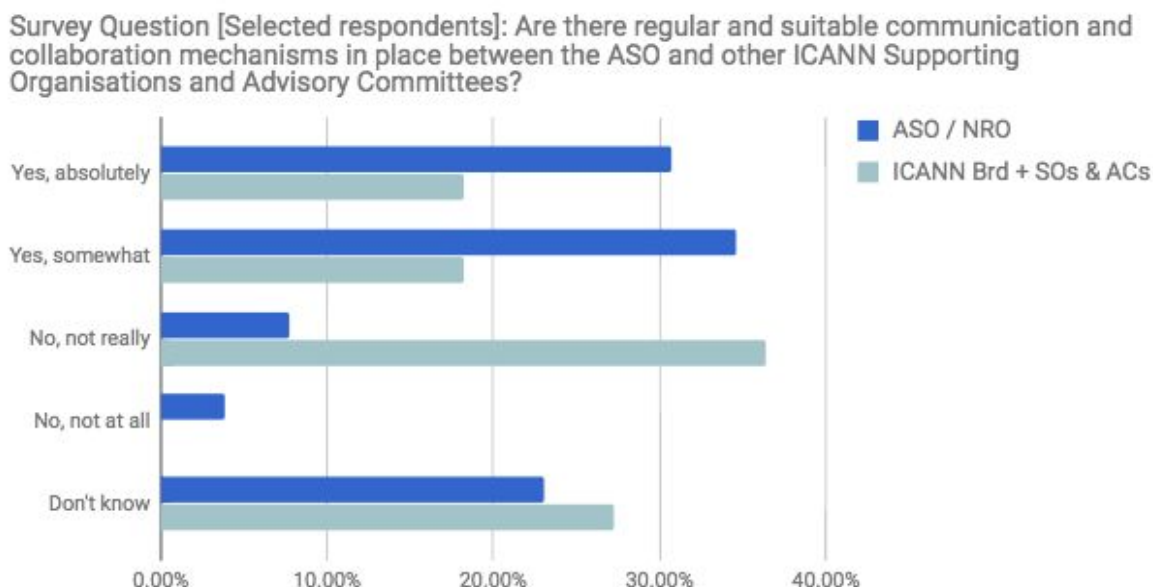
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### 6.1.3. New election procedures for seats 9 and 10

The latest changes to the ASO AC election rules were approved in June 2017 in reaction to the previous board seat election. This is an example of the ASO AC doing one of the MoU prescribed roles, specifically; “defining procedures for selection of individuals to serve on other ICANN bodies, in particular on the ICANN Board....” So while we have no basis yet upon which to judge these new rules (implementing a Schulze method of ranked voting, amongst other changes), we do see this as an example of a healthy, functioning ASO AC doing their job.

## 6.2. Collaboration with other ICANN SOs & ACs

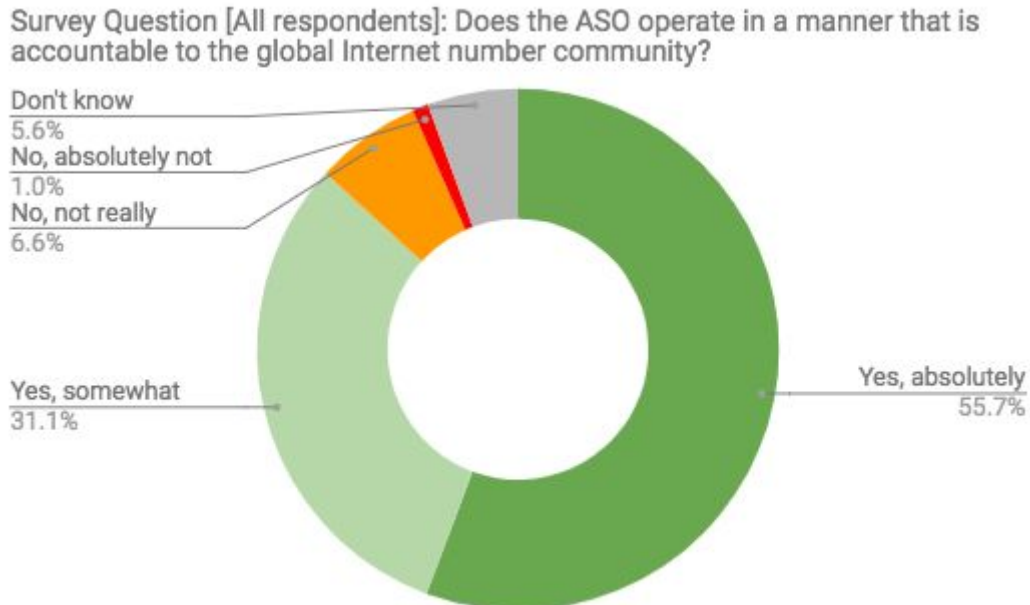
We asked Interviewees about coordination with other ICANN bodies and not surprisingly the ASO/NRO members answers were significantly more positive than those who have never participated directly in the ASO. We attribute this to the ASO/NRO folk actually seeing the collaboration and communication work being done whereas the non-ASO Members do not have visibility into these processes.



We heard that the previous seat 9 and 10 Board Members and ASO AC Chair worked hard to get recognition for the numbers community by attending fora with other SOs and ACs, giving updates to all concerned and making themselves available to answer basic questions about the role and function of the ASO. The current Board Members and ASO AC chair continue to build on on that work which will need to be strengthened further if all of our recommendations are implemented. There will need to be some capacity building around the potential Conflict of Interest that the Numbering Community should avoid by not participating in various ICANN processes where participation may be expected.

## 7. Accountability and Transparency of the ASO

We surveyed the community of knowledgeable people on the following question;



While nearly 87% of respondents felt that the ASO operates in a manner that is accountable (Yes, Absolutely + Yes, Somewhat), a small minority (7%) felt that they were not really accountable and 6% said they “didn’t know”. So the general consensus is that the ASO (both bodies, the AC and the NRO EC) have established lines of accountability to their communities either directly or indirectly.

While there are a variety of ways to define “accountability”, in the context of the Internet number community, it seems to be defined as “can these people be removed from their role in cases where they do not act according to the wishes of the community body which has chosen them.” There are well established and well-functioning mechanisms throughout the numbering community that establish and maintain good accountability.

### 7.1. ASO lines of accountability

The ASO is made up of 20 people (15 ASO AC + 5 NRO EC) each of which is “answerable” to his or her community that elevated them to their role.

#### 7.1.1. NRO Executive Committee (EC)

There are five members of the NRO EC. According to the NRO MoU these five people could be anyone from the RIR communities. In practice, however, the NRO EC has always been made up of the CEO of the five RIRs. These five people are hired and can be dismissed by the respective RIR Board of Directors, so they are answerable (accountable) to the Board that hired them. This is a clear line of accountability.

If in future, non-CEO RIR staff are designated to sit on the NRO EC, the same type of accountability (employer-employee) relationship would still be in place.

### **7.1.2. ASO Address Council (AC)**

Two members of the ASO AC are elected by each RIR community. These elections seem to be conducted in line with the principles of bottom up, open and transparent processes that the RIR communities espouse. Anyone, and indeed everyone who attends the RIR meeting where elections are held is eligible to vote in these elections, there are no RIR membership criteria for enfranchisement. These 10 Members are therefore accountable to the larger community of Internet number policy makers in each region. They can be replaced at the next election, and thus their accountability (answerability) is ensured.

The five selected ASO AC Members (one per region) are chosen by the RIR Board Members to sit on the ASO AC. As with the NRO EC Observers, these people are accountable to the Board that has appointed them (another person can be selected to fill the ASO AC role at expiration of their term). Frequently these people are RIR Board Members, but are not always. When they are from a Board they are answerable to that Board and to the larger community which has elected them (they can be voted out of office at the next election or otherwise removed by that region according to 3.D of the ASO Rules Of Procedure). So we see full accountability from this role.

### **7.1.3. NRO Secretariat**

One NRO Secretariat staff and multiple RIR staff. These people are hired by the RIR CEO (in theory and can be dismissed by them as needed, so they are answerable (accountable) to the RIR that hired them. This is a clear line of employer-employee accountability.

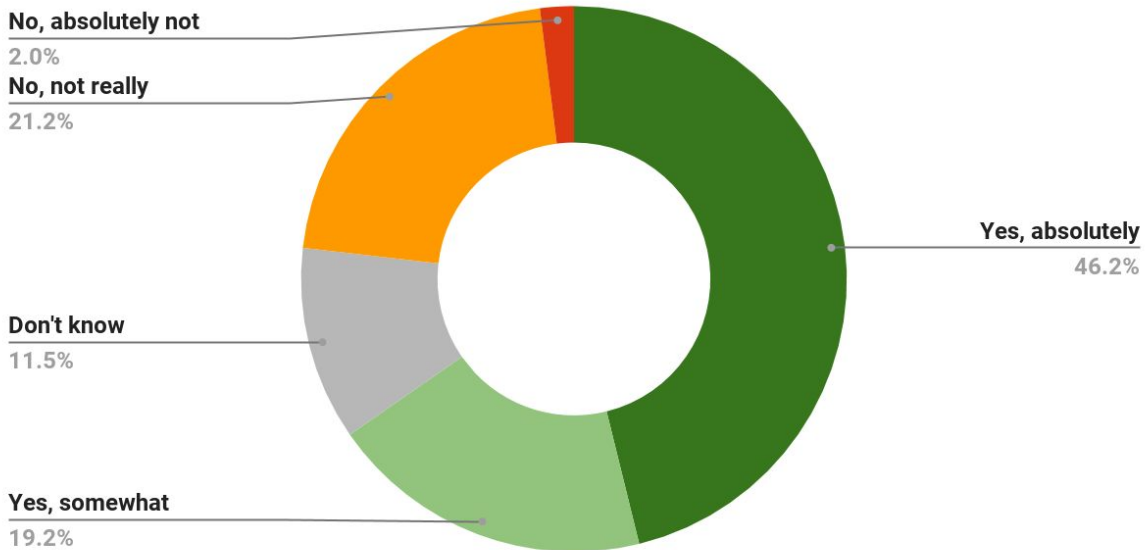
Another related matter is the independence of the ASO AC from the NRO EC. As we have stated, the Address Council is seen as the subordinate body to the Executive Council. The EC supplies the money and staff support and this opens up the appearance or the possibility that the EC could sway the positions of the AC.

We specifically surveyed all interviewees asking *“Is there sufficient separation between the ASO AC and the NRO Executive Committee to ensure that the ASO AC remains independent in its decision making?”*

66% of respondents replied on the positive side of the scale, telling us that they are independent, 22% responded negatively. 12% replied that they “didn’t know”.



Survey Question [All respondents]: Is there sufficient separation between the ASO AC and the NRO Executive Committee to ensure that the ASO AC remains independent in its decision making?



While this large number of negative replies was surprising to us, perhaps the explanation is the result of the most recent Board Member selection process where a new process was needed for the situation where the three candidates for the seat were all ASO AC Members. This new process needed the approval of the EC according to the Rule of Procedure.

One troubling interview answer on this question came from an ASO AC Member who said;

*"It is occasionally difficult to get approval to procedure changes. There is some politics at play. This has not been an issue in our region, but some members of other regions have been pressured to vote a specific way. This is why we moved to ranked ballots."*

While we did hear from a number of respondents that the Board selection process has regional political influences, we did not hear that this influence came directly from the NRO EC Members. In general, most of the "power" in the bicameral ASO resides with the NRO EC and with that body taking on the role of the DP, the EC will have even more powers and clout.

The only role the ASO AC regularly performs without the EC having some sort of role is the selection of Board Members. From our experience, and what we have learned in the past six months, we trust that this role can be carried out in the future without any EC influence on board Member selection.

## **7.2. ASO AC Membership direct accountability issues**

Currently the ASO consists of ten elected member (two per region) and one member selected by the RIR Board in each region.

A small minority of people we spoke to suggested that all fifteen ASO AC Members should be elected and that this would increase accountability to the numbering community at large.

While there is an numerical balance in the ASO currently (10 AC Members elected and 10 AC/EC Members selected by RIR Boards), the proponents of this idea pointed out that all 15 ASO AC Members should be directly accountable to the numbering community.

However, the practice of the RIR Boards selecting one ASO Member per region allows for the identification and retention of hard-working people. We have seen evidence in the recent history of the ASO that points out the utility of this practice and we find it to be of value to the Internet numbering community.

We spoke to a variety of people about the size of the ASO AC and while some felt it was too big, they were a distinct minority. Most felt that 15 was a good size. The size and balance between elected and appointed Members of the ASO in the current situation is, in our view fairly optimal, so we make no recommendation on these issues.

## **7.3. ASO Website**

### **7.3.1. Translations**

In 2013 translations of the ASO MoU were made available in Arabic, Chinese, French, Russian and Spanish. This is consistent with Recommendation # 15 of the previous review.

### **7.3.2. ASO Frequently Asked Questions (FAQ)**

The ASO Website contains a useful FAQ<sup>17</sup> section which answers many of the questions that outsiders are likely to have regarding the operations of the ASO. However, we note that the section does not include any questions on the specific role of the NRO EC as part of the ASO. In light of the creation of the ICANN *Empowered Community* and on account of the numerous calls we have heard to clarify the separate roles of the ASO AC and the NRO EC as part of the ASO we would recommend an additional question on the specific role and scope for action of the NRO EC.

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**Recommendation # 15:** An additional question should be added to the ASO FAQ along the lines of: “What is the role of the NRO EC in relation to the operations of ASO?” or “What functions does the NRO EC regularly conduct in relation to the operations of the ASO.” The answer should more clearly enumerate the functions and/or specify the scope for action of NRO EC as part of and/or in the name of the ASO.

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<sup>17</sup> ASO FAQ: <https://aso.icann.org/about-the-aso/aso-frequently-asked-questions/>

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### 7.3.3. ASO Meeting Participation Records

We note the useful feature<sup>18</sup> of attendance records being maintained and available on the website and applaud the ASO for keeping these records and making them public. This is a useful accountability measure that should certainly be continued.

### 7.4. NRO

While the NRO website has a page on the NRO NC, most of the activities of the NRO NC are documented on the ASO website. We suggest that at least a link to the minutes of the NRO NC be included on the NRO website.

We have also found during our documentary research that the NRO EC minutes are difficult to find on the NRO website, and suggest that the EC minutes be given a more prominent [link](#) on the ASO homepage.

The ASO MoU says:

*19. All global policies adopted will be published in the NRO and the ICANN web sites.*

*20. Global policies adopted previous to this MoU will also be published in these sites, with a clear indication that they were adopted prior to the current policy procedure.*

We do not see #19 and 20 as being fully implemented.

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**Recommendation # 16:** The ASO should fully implement sections 19 and 20 of the ASO MoU.

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### 7.5. Transparency

The Internet Numbering Community has published its own principles of openness and transparency<sup>19</sup>. All RIR meetings are open to the public, they are recorded, translated, archived and publicised. Their policy and other mailing lists are also open to the public for subscription and archived, their policies are made in regional fora in line with Best Practices of bottom-up, open, fully transparent and consensus based decision making.

The ASO AC on the other hand has closed most their face-to-face meetings, their regular teleconferences and email archives. One long-time member of the ASO AC us a anecdotal history of the ASO AC; suggesting that originally, meetings were closed until someone

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<sup>18</sup> <https://aso.icann.org/meetings/ASO-AC-meeting-participation-records/>

<sup>19</sup> RIR Acountability Q&A: <https://www.nro.net/about-the-nro/rir-accountability/#23>

pointed out that there was no reason for this closure and they were opened up in line with the rest of the numbering community practices. For a while meetings were open to anyone who wished to attend. Then, at some point, the need to discuss individuals' suitability for certain ICANN roles led to closure of all ASO AC meetings.

The review team feels strongly that, with the exception of discussions regarding the CVs and suitability of people for ICANN appointments, all ASO AC meetings should be open to the larger ICANN community. We do not anticipate a large influx of attendees due to the relative obscurity of the proceedings, but for the sake of transparency we make the following recommendation:

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**Recommendation # 17:** ASO AC meetings should be open to the public, except during discussions of selection of individual to be selected for ICANN roles.

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The AC-COORD Mailing list is a slightly different matter. Despite multiple verbal and written requests, the Review Team was unable to access the archives of the main mailing list of the ASO. Despite the fact that multiple RIR staff and Board Observers are on this list, the ASO AC seems to be eager to keep these discussions private.

The archive of the ASO-Council mailing list archive at:

- <https://aso.icann.org/contact/aso-mailing-lists/> points to the aso-policy list archive
- <https://aso.icann.org/pipermail/aso-policy/> as does the aso-policy list archive link.

There does not seem to be a publicly available list archive or mailman page for the main ASO AC working list [AC-COORD].

On the one hand it is Best Practice to have ICANN mailing lists publicly archived. On the other hand if the ASO AC does discuss candidates for the Board and NomCom on a list, it will be desirable but nearly impossible to keep ONLY these discussions out of the public eye.

Since the AC-COORD list has such a wide distribution already, we suggest the archive be open to public perusal. If a second list needs to be set up for discussions about people for roles, that may be a solution if the reason for closing the list is sensitivity around this issue.

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**Recommendation # 18:** Mailing list archives should be publicly available but not be open to all for subscription.

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## 8. Review (draft) recommendations

Table of Draft Recommendations
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**Recommendation # 1:** ICANN Bylaws should be updated to reflect the fact that the NRO will, like the GAC, and according to the ASO MoU, provide its own review mechanism for the review of ASO.

**Recommendation # 2:** The ASO MoU should be updated to reflect the fact that appropriate section of the New ICANN Bylaws regarding Organizational Reviews is Section 4.4 (previously Article IV, Section 4).

**Recommendation # 3:** The NRO should seek to clarify the nature of the ASO in the MoU by adding specific references to the roles of the NRO EC. If the ASO is to have 2 bodies, this should be stated clearly.

**Recommendation # 4:** The NRO should adopt one name for the ASO advisory body - either Address Council (AC) or Numbers Council (NC), which should be used throughout the ICANN Bylaws, the ASO MoU and in all other documentation and communications.

**Recommendation # 5:** In the interests of promoting a better understanding of the operations of the ASO a clearer distinction should be made between the role and functions of the ASO AC and the NRO EC. In particular the NRO EC should be more clearly identified as the main coordinating body of the NRO with legal authority and certain enforcement powers regarding the operations of the ASO..

**Recommendation # 6:** The NRO and ICANN should update the ASO MoU, acknowledging AfriNIC as an additional signatory, and taking into account mutual responsibilities resulting from the creation of the ICANN Empowered Community.

**Recommendation # 7:** Upon completion of every independent Periodic Review, as per Article 8 of the ASO MoU, and insofar as recommendations are made that imply updates to the ASO MoU, the NRO and ICANN should promptly initiate discussions, as per Article 9 of the MoU to determine if the ASO has a continuing purpose within the ICANN structure, and to modify or eliminate the MoU accordingly.

**Recommendation # 8:** The ASO should adopt a single authoritative description of the Global Policy Development Process to be used for global numbering policies. The same description of the Global PDP should appear in Attachment A of the ASO-MoU and the relevant section of the Operating Procedures of the ASO AC (Currently Section 6). Alternatively, for the sake of simplicity the ASO could decide to drop Attachment A of the ASO MoU.

**Recommendation # 9:** The ASO should remove Attachment B from the ASO MoU. (Currently Section 6). Alternatively, for the sake of simplicity the ASO could decide to drop Attachment A of the ASO MoU.

**Recommendation # 10:** The ASO MoU should be updated to reflect the new reality of the Empowered Community and specify that the roles and responsibilities within the ASO must be clearly defined.

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