

AFRINIC APPEALS COMMITTEE

REPORT ON APPEAL ON AFPUB-2016-V4-001-DRAFT07

I. Appeal Committee Formation

The Board of AFRINIC appointed the AFRINIC Policy Development Appeal Committee (Committee) as announced by the Chief Executive Officer (CEO) of AFRINIC to the AFRINIC community on 11 December 2017 through the Resource Policy Development (RPD) mailing list. The archives of the RPD mailing list are published at the following URL: <https://lists.afrinic.net/pipermail/rpd/>

This follows the AFRINIC Policy Development Process (PDP) Policy which gives the mandate for creation of such a committee. The AFRINIC PDP is published at the following URL: <https://www.afrinic.net/en/community/policy-development/251-policy-development-process-in-the-afrinic-service-region-afpub-2010-gen-005>

The Terms of Reference (ToR) of the Appeal Committee are published at the following URL: <https://www.afrinic.net/en/community/working-groups/policy-appeal/2243-appeal-committee-terms-of-reference-v2>

II. Members – Chairperson – Secretariat

The appointed AFRINIC Policy Development Appeal Committee members as listed by the CEO are:

- i. Adam Nelson
- ii. Paulos Nyirenda
- iii. Wafa Dahmani
- iv. Ayitey Bulley
- v. Lala Andrianamampianina

The Committee at its first meeting elected Wafa Dahmani as its Chairperson.

AFRINIC accepted a request from the Committee to be its Secretariat and appointed Guylaine Laiyra, a staff member of AFRINIC, as Secretary.

III. Receipt of the “Appeal against the declared consensus of AFPUB-2016-V4-001-DRAFT07” Softlanding-bis policy proposal

The Committee received an *“Appeal against the declared consensus of AFPUB-2016-V4-001-DRAFT07”* Softlanding-bis policy proposal which is published as required by the ToR at the following URL:

<https://www.afrinic.net/en/community/working-groups/policy-appeal/appeals>

The Committee reviewed and confirmed that the Appeal filed is in accordance to Section 5 of the ToR of the Appeal Committee.

IV. Timeline

At its first meeting on 19 January 2018, the Committee approved a timeline as required by its ToR for dealing with the received appeal on the Softlanding-bis policy proposal and the timeline is published at the following URL:

<https://www.afrinic.net/en/community/working-groups/policy-appeal/appeals>

On 23 January 2018, the Chairperson informed the AFRINIC community of publication of the timeline through the RPD mailing list.

V. Documents

The Committee found and received all the documents listed in the Timeline which are as follows;

- a) RPD discussion summary on the policy,
- b) Minutes of meeting (Face to face),
- c) Last call,
- d) Assessment from PDWG co-chairs,
- e) Recommendations to the Board.

The Committee agreed to work based on the documents available.

VI. Meetings and discussions of the Appeals Committee

The Committee scheduled and met online using the *Zoom* online conferencing facility supported by the Secretariat as follows:

- i. 19 January 2018
- ii. 13 February 2018
- iii. 16 February 2018
- iv. 20 February 2018
- v. 23 February 2018
- vi. 27 February 2018
- vii. 2 March 2018

The Committee also used its mailing list at the e-mail address:

<pdwg-appeal-committee@afinic.net> to carry out discussions online.

The minutes of the Committee meetings will be published at the following URL
<https://www.afinic.net/en/community/working-groups/policy-appeal/appeals>

VII. Review of process and steps in PDP for declaring a consensus on a policy proposal

The Committee reviewed the process and steps for declaring consensus as stated in the AFRINIC PDP policy.

The Committee observed that the mandate of declaring consensus in the PDP is given to the two Chairs (Co-chairs) of the Policy Development Working Group (PDWG).

The Committee observed in the PDP that the Co-chairs are required to evaluate consensus in the PDP following the three principles of openness, transparency and fairness at the following two steps only:

- a. face-to-face Public Policy Meeting as required in Section 3.4.2 of the PDP and
- b. last call period as required in Section 3.4.3 of the PDP.

VIII. Co-chairs' actions on the steps for declaring consensus up to and during the face-to-face meeting of 30 November 2017 during the AFRINIC27 meeting in Lagos, Nigeria.

The Committee watched the video of the face-to-face policy meeting that discussed version **AFPUB-2016-V4-001-DRAFT06** of the Softlanding-bis policy proposal. The video is available at the following URL:
<https://www.youtube.com/watch?v=e-ElsBtenw0>

The Committee noted that there was no opposition to the policy proposal at the face-to-face meeting.

The Committee noted that the Co-chairs of the PDWG did declare that consensus had been achieved on that policy draft but they also noted that proposals were made for the further development and refinement of the policy proposal. The declaration of the Co-chairs is published in the minutes of the face-to-face meeting at the URL: <https://www.afrinic.net/en/library/policies/archive/ppm-minutes/2261-afrinic-27-pdwg-meeting-minutes>

IX. Committee assessment on Co-chairs' steps and actions on the face-to-face meeting.

The Committee discussed and agreed with the Co-chairs' steps up to and during the face-to-face meeting, their evaluation and their declaration at that point of the process of the PDP on the policy draft.

The Committee noted that most of the speakers at the face-to-face meeting spoke in support of the policy proposal and some indicated that issues being addressed by the policy were urgent.

X. Co-chairs' steps and actions on the last call

In line with the PDP the Co-chairs made a last call on 1 December 2017 which is published at the URL: <https://lists.afrinic.net/pipermail/rpd/2017/007721.html>

The Committee noted that the last call also presented revised draft version **AFPUB-2016-V4-001-DRAFT07** of the policy draft.

The Committee noted from RPD archives that there was considerable opposition to the policy draft on the RPD mailing list during the two weeks of the last call period.

The Committee noted that the Co-chairs declared that consensus had been achieved. The evaluation and declaration of the Co-chairs is published at the following URL:

<https://lists.afrinic.net/pipermail/rpd/attachments/20171226/3e614b5b/attachment-0001.pdf>

Following their declaration, the Committee noted that the Co-chairs made a recommendation to the AFRINIC Board to approve the policy draft into an AFRINIC policy for implementation as published at the URL:

<https://lists.afrinic.net/pipermail/rpd/attachments/20171226/3e614b5b/attachment-0001.pdf>

XI. Committee assessment on Co-chairs' steps and actions on the Last Call

The Committee observed that the Last Call is a critical step in the evaluation by Co-chairs on whether a policy proposal has achieved consensus in the PDP.

Section 3.4.3 of the PDP says, *"The Working Group Chair(s) shall evaluate the feedback received during the Public Policy Meeting during this period and decide whether consensus has been achieved."*

The Committee observes that the word "has" in Section 3.4.3 of the PDP on Last Call shows that it is necessary for the Co-chairs to evaluate if consensus has been achieved during and at the end of the Last Call period in addition to their evaluation during and at the end of the face-to-face meeting.

The Committee observes that despite the considerable opposition to the policy draft during the Last Call period, the Co-chairs declared consensus.

The assessment of the Committee is, therefore, that there was no consensus during and at the end of the Last Call period.

The Co-chairs, therefore, should not have made the recommendation to the Board as they did in this PDP process.

XII. Final assessment of Appeal Committee on the Appeal

The final resolution of the Committee is that the Co-chairs erred in their declaration of consensus at the end of the Last Call period.

The appeal then succeeds.

End