

GNSO OPERATIONS STEERING COMMITTEE
CONSTITUENCY & STAKEHOLDER GROUP OPERATIONS
WORK TEAM (CSG WT)
TASK 1 SUBTASK 2 REPORT
AS AMENDED 09 APRIL 2010

Part I

1.1 Introduction

This Subtask Team, of the WG, is tasked with developing proposals to “*enhance existing constituencies by developing recommendations on Constituency operating principles and procedures*” (herein “Subtask 1.2”). The members of the group are Claudio DiGangi, Rafik Damik, Michael Young and S.S. Kshatriya and Victoria McEvedy.

The BGC Report at p.43 mandated the development of the following:

“..clear operating *principles* for each constituency to ensure that all constituencies function in a representative, open, transparent and democratic manner. *Operating procedures* adopted by constituencies should reflect *common principles* and follow these *guidelines*.”ⁱ

The BGC’s Guidelines are at Schedule I below.

1.2 Improvements

The BGCⁱⁱ was concerned to reduce entry barriersⁱⁱⁱ to active participation in Constituencies—including the “*unacceptably high information costs*” of joining a Constituency,^{iv} and the difficulty of penetration and the lack of basic transparency and disclosure of interests.^v The goal then is improved and simpler and easier to understand Constituencies^{vi} that reduce process fears^{vii} and increase transparency of process. The BGC solution was minimums in common operating procedures while recognizing some variation as acceptable.^{viii}

1.3 The Case for Improved Transparency

We are aware of the BGC exhortation to best practice in governance, accountability and transparency.^x We are also conscious of ICANN’s public trust function and that ICANN is accountable to the global community to the global public at-large rather than to any specific member or group of members.^{xi} Indeed, ICANN’s Bylaws state that: ICANN and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness, Art. III.§1.^{xii} See also its core value of

Deleted: A key issue that has informed the work of this team is the warning from the BGC: “*Our goal is definitely not to create a new layer of bureaucracy, as we heard concerns about at the San Juan Meeting.*”^{xiii} It was this that drove recommendations for more standardization –and therefore simplification –at the Constituency level. This concern is now resolved for Contracted parties who have only the one layer. While there is some expectation that Constituencies may become less significant in future certainly at this transitional stage this is not the case and currently GNSO Council seats are still tied firmly to Constituencies in the Non Contracted Houses. -

remaining accountable to the Internet community through mechanisms that enhance ICANN's effectiveness at Art. I.§2.10.

1.4 Methods

The group considered the myriad of diverse practices and procedures currently in use by the Constituencies. These are collated in table form^{xiii} and their complexity and diversity is evident. We considered approaches to participation and operational rules by other consensus based multi-stakeholder organizations such as those referenced by the BGC Report –ie IETF, W3C, RIPE, LACNIC, as well as other governance models such as WITSA and the ICC. A useful independent review of the features of the main internet governance entities was conducted for the Council of Europe: http://www.coe.int/t/dgap/democracy/activities/ggis/Public_participation_internet_governance/Internet_Governance_Report_Souter_May09.pdf. We also considered other sources such as common corporate practice and Robert's Rules. We were also assisted by the work done on the ICANN Working Group Operating Model by the Policy Process Steering Committee,^{xiv}

We also considered the Staff review of each Constituency Charter and Recertification application and Staff comments and suggestions to each Constituency and responses from Constituencies. See the Master schedule of the Task 1 Work Plan at https://st.icann.org/icann-osc/index.cgi?osc_constituency_operations_work_team_task_1_work_plan. The Staff review was not concerned –as we are—with proposing common participation rules and operating procedures but is still useful. It also compliments this Team's identification of best and worst practices currently employed by Constituencies. (See [Link to Document](#).) At its 1 October 2008 meeting, the Board directed Staff to develop a formal Petition and Charter template to assist new Constituency applicants in satisfying the formative criteria (consistent with the ICANN Bylaws). The template is at <http://gns0.icann.org/en/improvements/newco-process-en.htm#foot3>.^{xv} Its contents are a useful starting point to matters that this group should make recommendations as to “operating procedures, consistent with the principles outlined above, which all constituencies should abide by.” We also considered Staff advice to the proposed new constituencies [TBP: link].

1.5 Process Issues

We note that steering processes conducted by common membership of the steered and steering groups by individuals also representing and advocating for interested parties is very far from ideal indeed. We suggest in future a formal channel of communication with the collective steering entity to the collective WG.

Part II: Compromise Recommendations

The following recommendations apply to Stakeholder Groups and Constituencies, hereinafter referred to as "GROUPS," unless otherwise specified.

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1. Term Limits

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No person shall serve as a GROUP Councilor or Officer or as a Stakeholder Group Executive Committee member for more than four consecutive years. A member who has served four consecutive years must remain out of office for one full term prior to serving any subsequent term as a GROUP Councilor, Officer, or member of a Stakeholder Group Executive Committee. Any exception to this policy would require approval by the GROUP or Stakeholder Group membership.

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2. Executive Committees:

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a. All Executive Committees must promptly publish action points, decisions and any resolutions to GROUP members. It is recommended that prompt publication means within a reasonable period and a guideline is between 72 hours and 1 week of the relevant meeting.

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b. All Executive Committees must publish to GROUP members their rules and procedures, decision making process and criteria.

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3. Committees

a. It is recommended that constituencies adopt a standard set of rules and procedures to govern GROUP Committee constitution and operations. Whatever model is adopted, it should be published to the entire GROUP membership and maintained.

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b. The formation of all Committees should be made known to the entire GRUOP membership and eligibility to participate should be open to all members.

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c. The fact a Committee has been established and its membership shall be made available to the entire GROUP membership and shall be published on the GROUP website. a Action points, decisions and any resolutions and final work products should be made available to the entire GROUP membership within a reasonable period of any given meeting.

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d. It is recommended constituencies publish to the GROUP membership and going forward maintain a list of all active and inactive Committees and their final decisions, resolutions and final work products.

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4. Communications

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- a. GROUP mailing lists shall be open to the entire GROUP membership and, at the election of the GROUP in any given case, to the public. The GROUP may have reserved lists if needed.
- b. The outcome of all GROUP policy decisions should be open and publicly archived with posting rights limited to members at the election of the GROUP.
- c. GROUP business work products, finance and accounts, and submissions to Staff and other ICANN entities shall be made available to the entire GROUP membership unless there are valid grounds for restricting distribution.
- d. All GROUPS shall have a published Privacy Policy providing for the protection of the private data of members.

5. Elections

- a. It is recommended that GROUPS publish and maintain a list of all Office holders, past and present, to inform GROUP members and to provide transparency for term limits.

6. Voting

- a. All GROUP Charters shall clearly delineate the voting rights of all of their members.
- b. All GROUPS shall permit all voting members in good standing to vote in elections as delineated in their Charters.
- c. Members may be entitled to appoint proxies.
- d. No legal or natural person shall be entitled to join more than one GROUP as a voting member.

7. Charter Amendments

- a. The procedure for amending GROUP Charters should be stipulated herein.

8. Meetings

- a. GROUPS should adopt simple and accessible basic meeting procedures. GROUPS also may refer to the GNSO Bylaws, Operating Procedures, and the {GNSO Council Working Group Guidelines}.

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b. It is recommended minutes be taken at meetings of the general GROUP membership and action points, decisions and any resolutions or minutes be published to the entire GROUP membership within a reasonable period.

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9. Policy

a. Eligibility to participate on Policy Committees shall be open to all members in good standing.

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b. Any Member of a GROUP shall be able to propose the Policy Committee consider a Policy issue in accordance with the GROUP Charter.

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c. Policy Committee meetings should be open for attendance by all GROUP members, and at the election of the GROUP, to the public. PROPOSED LANGUAGE BY MARY WONG: Policy Committee meetings shall be open for attendance by all GROUP members, and, subject only to the conditions specified in this Section 8(c), shall also be open for attendance by the public. These conditions are either that (i) the GROUP Charter expressly restricts attendance at a particular type of Policy Committee meeting; or (ii) the Policy Committee decides, in its reasonable discretion, that the nature of a particular Policy Committee meeting is such that attendance should be limited only to GROUP members. Provided that, in the case of condition (ii), the Policy Committee shall inform all GROUP members of its decision to restrict attendance at the meeting as soon as practicable and in any case prior to the commencement of the meeting, and it shall further use reasonable efforts to make public any decisions taken at that meeting as soon as possible thereafter.

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10. GNSO Working Group (WG)

a. Any member of a GROUP shall be entitled to join any GNSO WG in an individual capacity and GROUPS shall publish and advise all members of the call for WG participants.

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b. GROUPS shall adopt and publish to the GROUP membership their rules and procedures for selecting and appointing GROUP representatives to GNSO WGs. It is recommended that these appointments be open to the entire membership to increase opportunities for participation.

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c. GROUP Members may participate in an individual or representative capacity but GROUP representatives must advise the entire GROUP membership of the WG activity from time to time.

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11. We recommend a Handbook be prepared containing the common rules and principles and materials referred to in the recommendations above.

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12. We recommend that all recommendations above, apply also to the Contracted House Stakeholder Groups.

Part III: Minority and other Recommendations

1.c Two Subtask members have indicated the view that Executive Committees should not have term limits or that any limits be recommendations only. One proposed that 80% of the Constituency could vote to remove a term limit.

2.b Two Subtask member opposed the recommendation that all Committees be open to all members without any restrictions, and wanted it left to the Constituencies or Stakeholder groups to determine, with the ICANN Bylaws as guidance, but with clear publication of the rule in the bylaws or charter. These Subtask members support the notion that all group members should be eligible to join committees, but recognize that in certain cases, Constituency or Stakeholder group may elect to set criteria for participation on various committees, as deemed appropriate.

3.d & e Two Subtask members did not support the recommendations on Constituency disclosure policies.

5. Two Subtask members do not support a one-size-fit-all rule on voting. These members indicated that there are inherent differences between GNSO groups & their respective communities, and to reflect these differences, representational and voting matters should be determined at the Constituency and/or Stakeholder group level, with ICANN providing final approval.

8.b. Two Subtask members do not support the recommendations that Policy Committees be open to all.

Note that if a Subtask member does not support a recommendation as expressed above, that Subtask member also does not support the associated analysis of the recommendation provided in Part IV below, except where otherwise indicated. As to the comments at paragraph 1.5 above, two Subtask members do not support the concerns raised regarding Process issues as expressed.

Other

10. Three Subtask members do not support any Code of Practice such as at Annex B and wanted it struck from this report. One of the three Subtask members suggested amendments. Three other Subtask members supported the Code being put to the full WG.

Part IV: Analysis

3.1 Executive Committees

We refer to the Staff notes in this regard for their detail. We also refer to the Template Charter and its general descriptions of the type of issues that should be dealt with.^{xvi} Turning to the various divergent practices in current use by Constituencies, as noted by Staff Charters contain generalized descriptions of the responsibilities of Executive Committees and provide for appointments.

However, Charters lack Executive Committee rules and procedures, decision making process and criteria, and provision for publication of minutes, decisions and resolutions to Constituency members.

Executive Committees often operate without transparency. There seems to be a blanket failure to publish minutes, resolutions or minutes. This concern was also noted by the LSE. This is not the right balance for ICANN as an international organization with public trust functions and in light of its core values and bylaw requirements.

In a corporate context, Executive Committees are utilized where an organization has a large or a geographically diverse Board and so can act with the power of the full Board between Board meetings. Utilizing Executive Committees without any Board at all is the worst possible borrowing from company law^{xvii} in terms of transparency. We note that while the ICANN Board may not publish its discussions –it does publish minutes and resolutions. For the avoidance of doubt, we are not suggesting that Constituencies should have Boards. We merely note that internationally accepted standards of Board governance and best practice should be a touchstone for good practice in Executive Committees in their own procedures. This is even more so given ICANN’s public trust function and its accountability to the public at large as well as ICANN’s own core values and Bylaws.

It has been noted and we recognize that some Constituencies as a matter of practice do take great pains to communicate the work of committed individuals who volunteer time to serve on the Executive Committees. Practices do differ markedly between Constituencies.

While it may be appropriate for Executive Committees to hold discussions in committee or under Chatham House Rules, they can have no objection to publishing their decisions and resolutions. We recommend, as a minimum; all Constituencies publish minutes or decisions and resolutions of their Executive Committee meetings within a reasonable period.

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 The following is the gist of comments received from Mr. DiGangi which he wished recorded and included in full. -
 As to the text in the analysis in Part V, on section 1.2, the quote is out of context from the BGC report and inaccurately summarizes the issue. On section 1.3, ICANN does not have “members.” Also, I disagree with the assessment that the mailing list recommendation was not supported by the WT. (My view was simply to get more information on whether the BGC was suggesting that every mailing list be open or just the main one). I do not share the views that are expressed in 1.5 on process issues with the OSC. Objection is made to Parts 3.1, 3.2, through 3.12. Sections 3.7 and section 3.8 are acceptable. I do not agree with the reasoning provided in sections 3.1 – 3.5. For example on the WG model, I have stated that it may not serve groups well to adopt it in most cases). In other sections, analysis is provided to support recommendation(s) that I do not agree with (3.6 , 3.11, 3.12). As a general matter, I see variations in operating procedures as being beneficial to the groups (as long as they act within broad guidelines), and this is contrary to the views expressed in these sections. Also, I think it is inappropriate, from a process perspective, to single any particular group for disparage treatment – (the report states that one group “offends basic democratic and representative principle and practice”). -
 Further, standardization in constituency operations does not equal simplification. Exhibit A for this proposition: this document, under which constituency operations would be much more standardized, but far more complex, than the status quo. (E.g., having to elect a chair for each meeting of the constituency) -

We note the BGC's express stipulation that there should be term limits for Constituency officers, so as to help attract new members and provide everyone with the chance to participate in leadership positions. See below as to Elections. The term limits should expressly apply to those serving on Executive Committees.

3.2 Committee(s)

We refer to the Template^{xviii} and to the current practices in the Combined Analysis of current practices [link] as well as to Staff comments [link]. We refer to the draft ICANN Working Group Operating Model by the Policy Process Steering Committee,^{xix} and we also refer to the laudable models of Working Groups developed by the IETF, RIPE, W3C and others.

We believe that in many cases, the BGC's objectives would be served by having Constituencies agree to adopt the ICANN Working Group Operating Model –as finally recommended by the Policy Process Steering Committee to govern Committee process—including Policy and Advisory Committees.

In addition we recommend that the formation of a Committee should be made known to the entire constituency membership. The fact a Committee has been established should be published on the Constituency website, where a list of all active and inactive Committees and their work products and resolutions should be publically available.

Final work product, decisions, resolutions and/or minutes should be made available in a timely manner.

We also recommend that Committees should be open to all Constituency members. A concern was noted that this may not be appropriate where specialist technical or professional knowledge or expertise is required to effectively contribute to the work of the Committee. We anticipate that is an exceptional situation however. Even specialized Committees often benefit from lay members. In such exceptional cases, the call to membership should be to all in the Constituency with the relevant expertise. To clarify, our concern is the practice of invitation only, closed Committees formed by appointment, whose existence and work may be unknown to the general membership.

3.3 Communications

We refer to the Template^{xx} and also to the BGC's Principles and Guidelines scheduled hereto. We also considered ICANN's role an international multi-stakeholder body and its public trust function and its accountability to the global internet community at large rather than to any specific members or group of members. We further note the Bylaws requirement that ICANN and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness, Art. III.§1.

We note that while the BGC expressly stipulated that “*mailing and discussion lists should be open and publicly archived (with posting rights limited to members)*” this does not have the support of the constituencies. This is an issue that should be referred back to the BGC.

We note that IETF, RIPE and LACNIC make almost all information publically available, even the work and drafts of small groups of interested parties who wish to influence policy and are attempting to gather momentum.

We recommend that situations properly constituting grounds for restricted circulation or publication even within constituencies should be certain and determined in advance by the membership and included in a Disclosure Policy –which can be incorporated by reference in Charters. We note by way of a precedent, ICANN’s own Documentary Information Disclosure Policy.^{xxi} We suggest a policy dealing with both documentary and non documentary information. Any grounds for withholding should be precise and based on predictable criteria e.g. legal advice or trade secrets of members. We also recommend an independent avenue of appeal should be provided for those challenging the implementation or application of the Policy in any instance. This might be provided by a committee of the GNSO Council.

Each Constituency should maintain up-to-date records of all current members, and this information must be available with protection for the contact information of individual members by way of written Privacy Policies.

3.4 Election of SG reps

We recommend that these appointments be voted on by the entire membership of each Constituency. We refer to the comments as to voting and elections herein. We also refer to the work of Subtask 1.1 on common participation rules.

3.5. Elections

We refer to the Template.^{xxii} We refer to our comments below as to voting. As to the Procedures, as described by the Template—we recommend they be standardized and common across Constituencies—there again being no advantage in any variation.

We note the BGC’s express stipulation that there should be term limits for Constituency Officers, so as to help attract new members and provide all with the chance to participate in leadership positions. It was observed that some Constituencies have had incumbents in the same or different office for considerable periods. A concern was expressed that the rotation of the same individuals through leadership and office may lead to the capture of Constituencies. Others were less comfortable with this characterization and the point was made that the limited pool of individuals available to fund their own travel and commit the considerable time necessary for leadership roles without remuneration –explained the frequent re-election of those available.

We note that the BGC recommended a limit of two terms for GNSO Representatives^{xxiii} and we would recommend that a similar limit be adopted within Constituencies for all office holders—including those on Executive Committees. We recommend a limit of two years per term and a maximum of two terms per office being a total maximum of four years in any office with the option to sit out a term and begin again. This has the added benefit of simplicity as it matching the Bylaws rules.

We also recommend that as far as possible Constituencies publish on their websites –and make publically available a list of all holders of office and all their respective past and present positions from commencement so that the Constituency members –particularly incoming members – can access this information and to provide transparency for term limits. This was supported by all WG members bar one.

3.6 Voting

This is an area impacting Subtask 1.1 on common participation rules as well as Subtask 1.2 on operating procedures.

We note the Staff's comments to one Constituency –which has members that cannot vote at all. Denying constituency members any vote offends basic democratic and representative principle and practice. The Constituency in question noted there were precedents even in ICANN for non-voting members but provided no examples or detail.

We recommend the rule of one member one vote. If legal or natural persons wish to appoint a collective, trade association or other organization, national or international, to exercise their vote –they can do so by proxy. This is how company law deals with the issue. Natural and legal persons (corporations and partnerships and other structures) are equal under the law in all common law jurisdictions and neither is preferred. The preference for the corporate form and treatment of individuals as somehow second class is wrong in principle. Nor is the negative treatment of individuals common to other internet governance organizations and we refer to the independent report commissioned by the Council of Europe above.

Further, there are no common law precedents for weighted or ranked voting based on size in corporate or democratic structures. If classes of members and weighted or tiered voting systems are to be permitted, then academic and expert advice needs to be sought as to the same and then any recommendations developed should require the express approval of the Board on recognized principles –to be developed. Displacing the one member one vote principle based on size or revenue would need to be theoretically justified so as not distort democratic or representative principles. We recommend academic work should be commissioned from experts as to appropriate principles and their application.

Given the current system is untested and lacks the hundreds of years of use that corporate models enjoy or, equally valid, alternatively proper independent academic back up and testing of the model --it will inevitably lead to exclusion and unfairness and be undemocratic and unrepresentative. While innovative structures are laudable in general --on this sort of crucial element, proper theoretical foundations are required. Organizational theory and governance are now highly developed subjects and so we recommend some resort to the same.

We recommend that no legal (including related parties) or natural person be entitled to vote in more than one Constituency.

3.7 Finances

In accordance with the BGC's concerns as to openness, transparency and accountability --- some recommended all Constituencies publish their full accounts to members. It was felt that as ICANN had not provided the funds to date, publication should be limited to the membership.

3.8 Amendments.

The procedure for amending Constituency Charters should be stipulated and standard.

3.9 Meeting procedure

This refers here to meetings of the constituency general membership. We recommend that as far as possible basic meeting procedure should be simplified. We see no benefit to variations in basic meeting procedure --and an information barrier and extra layer of complexity without real purpose. We recommend that the CSG WT prepare a basic handbook or rule book of recommended meeting procedure --or the adoption of an existing precedent such as Robert's Rules. A precedent of basic meeting procedure is at Annex A.

Alternatively, meetings could function on the GNSO WG model currently under development -- unless consensus cannot be reached --at which point the proceedings could be escalated to a formal basic standard meeting procedure. We make this proposal in the spirit of the BGC's Guideline directing emphasis on reaching consensus to achieve objectives and closure on issues.

We note the BGC's concern that procedures and support for policy positions should be clear --in light of this and as a matter of basic good practice minutes should be taken at all meetings and minutes and resolutions published together with levels of consensus or votes.

We recommend that any 5 members can request the Constituency call a general meeting.

3.10 Policy Development and Records of support for Policy.

Where Constituencies have separate Policy Committees --we recommend those Committee's comply with the same minimums as Executive Committees above. We also refer to our

recommendations on meetings above. Where consensus calls are employed –they shall follow the ICANN WG model. Where formal voting is adopted it should be recorded in accordance with the formal standard meeting procedure recommended above.

Where the substantive work of the Constituency on GNSO Policy is undertaken by a Policy Committee, issues arise as to the ability of the membership to participate in the work of the Constituency. We note the Staff has raised this in relation to Working Groups [link]. Standing Policy Committees can operate to exclude the membership and minimize real participation. Ad hoc Committees formed to deal with a particular policy issue, open to the membership are preferable from a participation perspective. Alternatively, we recommend shorter terms of membership as a general rule, one year, but with no limits as to term. We also recommend that these Committees should be flexible, open to all members, able to admit members for temporary or limited periods where their expertise may be required on a given issue and unrestricted in size as appropriate.

We recommend that any member of a Constituency should be able to propose an issue, whether of Policy or otherwise, be examined in Committee and provided 5 members agree, a Committee shall be formed.

3.11 GNSO WG –participating

Any member of a Constituency should be entitled to join any GNSO Working Group and to participate as a representative of the Constituency or an individual –at their own election. Either way, they should make regular reports to the Constituency as to the work.

Further, Constituencies should advise all members of the formation of GNSO Working Groups and any member should be entitled to join the same –subject to limits on numbers per Constituency.

3.12 Dealings with Staff: A Code of Practice

A concern was raised as to the Staff’s role and function in the GNSO and to whom the Staff answer. Having no independent constitutional role, they must act under the direction of a GNSO entity, have transparent instructions and be accountable to that entity. In practice, the Staff’s authorizing mandates are not always made public in a timely fashion, nor are the tasks clearly subject to the direction, supervision or oversight of any entity. Without structural safeguards, transparent mandates and lines of reporting and accountability, Staff may be engaged and informally lobbied by interested parties –circumventing transparency measures. Such practices represent a major challenge to the objectives of GNSO reform but are also relevant to ICANN’s compliance with its own core values and its discharge of its public trust function –and its

Bylaws. Further, Staff should be protected from such pressures, particularly in relation to Contracted parties who may regard themselves as the employers of the Staff.

Some group members were concerned to identify further evidence of or justification for this concern. All agreed that investigation of the issue was not within our remit however. It was suggested that this may be a matter for the BGC itself or the SIC and we agree and recommend that this WG formally refer the issue to the BGC and the SIC and ask them to recommend a procedure for instructing and engaging Staff –ideally by published request, mandate, or decision and in each case stipulate to whom Staff should report and who shall supervise them. It was also suggested that Staff should raise this with their superiors and we agree that Staff should themselves require written and published requests, mandates or decisions as authority going forward. However it is within our remit to suggest operating procedures that meet best practice going forward and we think it is appropriate to take this opportunity to recommend certain minimums in the way Constituencies deal with Staff.

We recommend CSG WT prepare a Code of Conduct to govern Constituency dealings with Staff including provision for independent ownership of the Code and for independent adjudication of any complaints by Staff of Code violations. A proposed draft is attached at Annex B.

Schedule I: The BGC’s Guidelines

At p.43 the BGC Report sets out the guideline minimums that the operating procedures must observe. These are as follows.

- “Mailing and discussion lists should be open and publicly archived (with posting rights limited to members).
- Procedures for developing policy positions should be clear. There should also be publicly available information about how many participants from each constituency were involved in the development of any policy position.
- Constituency processes should encourage participation from stakeholders across the globe. Where possible, relevant documents should be made available in multiple languages.
- There should be term limits for constituency officers, so as to help attract new members and provide everyone with the chance to participate in leadership positions.
- There should be an emphasis on reaching consensus to achieve objectives and closure on issues.

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ⁱ The BGC summarized this in the following action item at p.46: "Proposed Action Item: The Board requests: (i) The GNSO constituencies, with assistance from Staff as needed, to develop a set of participation rules and operating procedures, consistent with the principles outlined above, which all constituencies should abide by. The ICANN Board should ask the constituencies to develop and publicize common principles within six months; and to implement operating rules and procedures consistent with those principles at that time."

ⁱⁱ BGC Report at p.39: "The constituency structure that has served as the basis for determining membership on the Council and its task forces, as well as for developing and voting on policy advice to the ICANN Board, needs to adapt in light of the move to a working group model, revisions to the PDP, and a restructured Council. It should be noted that we view the new stakeholder structure primarily as a way to organize the Council. While it will also encourage the constituencies to maximize their common interests, it does not on its own change the constituency structure itself."

ⁱⁱⁱ BGC Report p.42: "It is also important that ICANN minimize the barriers to entry to constituencies for those interested in policy issues. These barriers to entry fall into three groups: information, processes and cost. The information barrier is perhaps the most significant...For many who might be interested in ICANN's policy discussions, another barrier is the myriad of different ICANN processes which can be hard to understand and follow. At present, each constituency has a different set of membership and operating processes, and it is difficult for an individual to have a quantifiable impact on the policy process other than through a constituency. These problems are magnified for those who are not comfortable working in English. One solution is for each constituency to have a clearly communicated set of participation rules and operating principles that are based on common principles developed by the GNSO. These rules then should be made available in a variety of languages so they can be understood by ICANN's global audience."

^{iv} See LSE Report at p.9.

^v See LSE Report at p.9.

^{vi} See LSE Report at p.11.

^{vii} See LSE Report at p.44 §2.41.

^{viii} BGC Report p.43 "Within certain broad and important guidelines, there can still be room for innovation and differentiation in the detailed procedures developed by each constituency that best meet the needs of that constituency."

^x BGC Report p.42: "*ICANN is currently engaged in a series of initiatives aimed at further improving levels of accountability and transparency throughout the organization. The GNSO Council and the GNSO constituencies, like all of ICANN's structures, need to ensure that all of their processes adhere to the highest standards. The reviews of the GNSO suggest that there is a need for greater transparency within constituencies and greater consistency across constituency structures...*"

^{xi} ICANN Accountability & Transparency Frameworks and Principles of January 2008 at p.5.

^{xii} <http://www.icann.org/en/general/bylaws.htm>.

^{xiii} See link named 'Revised Combined Analysis' at https://st.icann.org/icann-osc/index.cgi?constituency_operations_team

^{xiv} https://st.icann.org/icann-ppsc/index.cgi?wg_team_model

^{xv} The GNSO page says "This second-step charter template is very comprehensive. It is based largely on the charters of existing GNSO constituencies. The process of building

a thorough and complete charter document will evolve over time. Any new constituency in its formative stages should consider utilizing the template as a reference guide recognizing that some sections may be deferred. It is not envisioned that a new constituency must address all factors or answer every before petitioning the Board for recognition and approval.”

^{xvi} See Template: “1.1Composition, Eligibility, and Terms of Office: Suggestion: What officers and positions comprise the constituency’s leadership structure (e.g. Executive Committee); what are the relevant eligibility criteria; and what terms of office apply including limits, staggered terms, resignation, suspension, removal, and vacation? 1.2Responsibilities: Suggestion: This sub-section describes the roles, duties, and responsibilities of each position identified in 2.1 above including delegated powers and authorities (e.g. facilities, budgets, operating plan, meetings/conferences, web site). 1.3 Decision-Making Processes: Suggestion: What methodologies will the constituency’s leadership team utilize in its decision-making processes and in what ways can/does the membership participate? Optionally, voting mechanisms/rules may be described here or referenced only and explained in §8.0.”

^{xvii} We note that under English law model articles of association for a private company are contained in the Companies Model Article Regulations 2007. See www.berr.gov.uk/files/file40794.doc.
<http://www.companieshouse.gov.uk/companiesAct/implementations/TableAPrivate.pdf>.

^{xviii} See Template “3.1Purpose and Function: Suggestion: For each permanent committee (or council) envisioned (e.g. policy development, credentials), what is the purpose of that entity and what are its principal functions?; 3.2 Officers, Eligibility, and Terms of Office: Suggestion: What officers and positions comprise the committee’s (or council’s) leadership structure; how are they appointed or elected; what are the relevant eligibility criteria; and what terms of office apply including limits, staggered terms, resignation, suspension, removal, and vacation?; 3.3: Responsibilities Suggestion: This sub-section describes the roles, duties, and responsibilities of each position identified in §3.2 above including delegated powers and authorities.; 3.4 Advisory Structures. Suggestion: This sub-section addresses the various types of temporary advisory entities (e.g. working groups, sub-committees, task forces) that might be constituted for each committee (or council); how they are chartered, organized, and populated; and, depending upon each one’s function, might define additional roles such as author, rapporteur, secretary, et al.; 3.5 Decision-Making Processes. Suggestion: What methodologies (e.g. consensus, voting) will the committee (or council) and advisory structures utilize in their decision-making processes and in what ways can/does the membership participate? What procedures or processes will be engaged to resolve disagreements?”

^{xix} https://st.icann.org/icann-ppsc/index.cgi?wg_team_model

^{xx} 5.0.Communications. 5.1. Meetings/Conferences. Suggestion: What types of meetings will the constituency hold including frequency/duration and for what general or specific purposes? How will notifications and agendas be handled and what protocols will be employed to guide the sessions (e.g. Robert’s Rules of Order)? What attendance options are supported (e.g. remote teleconference)? Are observers permitted? How will sessions be recorded (e.g. audio, minutes), published, and archived? Will translation/interpretation services be offered or available? 5.2. Distribution/Communication Lists. Suggestion: What email, discussion, announce, listserv, web site, or other mechanisms will be utilized for membership

communications? What categories of member information will be collected and included? What publication/privacy policies pertain to these lists?

^{xxi} <http://www.icann.org/en/transparency/didp-en.htm>

^{xxii} "7.1. Eligibility for Elected Office. Suggestion: This sub-section might include any general eligibility criteria pertaining to elected positions not elsewhere covered under a particular title (e.g. access to proprietary/confidential information).
7.2 Procedures. Suggestion: This sub-section describes the constituency's roles, responsibilities, processes, rules, and associated timelines for handling nominations, circulations, candidates formal acceptance, and submission of resumes/bios/qualifications; elections (method, use of proxies); and determination of outcome(s) including ties, eliminations, etc."

^{xxiii} BGC Report p.38.