GNSO Operations Steering Committee
Constituency & Stakeholder Group Operating Work Team

For Work Team Consideration
30 April 2010

Recommendations on Task 1: Enhance existing constituencies by developing recommendations on constituency participation rules, operating principles, and database of members

1. Executive Summary

After several GNSO reviews, the ICANN Board Governance Committee (BGC) created a working group (WG) to consider the results of the reviews and recommend a comprehensive proposal to improve the effectiveness of the GNSO, including its policy activities, structure, operations and communications. The BGC WG produced a comprehensive set of recommendations: "BGC WG Report on GNSO Improvements" that were approved by the full Board.[1] This report has been extensively referred to in preparing this Recommendation Document.

As a follow up to the above referred report, the GNSO Council formed two steering committees. The Operations Steering Committee (OSC) formed three work teams, one of which is the OSC Constituency Operations Team, subsequently called the OSC Constituency and Stakeholder Group Operations Team (OSC CSG Work Team).

The Work Team, with ICANN staff support, created a Work Plan and broke it down into Tasks. Task 1, the subject of these recommendations, was split into the following four subtasks, which correspond to the recommendations in the BGC WG Report referenced above:

- Subtask 1: Develop recommendations for a set of participation rules and operating procedures, which all constituencies should abide by;[2]
- Subtask 2: Develop recommendations for clear operating principles for each constituency to ensure that all constituencies function in a representative, open, transparent and democratic manner;[3]

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[1] See: "BGC WG Report on GNSO Improvements" at <http://www.icann.org/en/topics/gnso-improvements/gnso-improvements-report-03feb08.pdf>.

[2] Ibid at page 46.

[3] Ibid.

- Subtask 3: Develop recommendations for creating and maintaining a database of all constituency members and others not formally a part of any constituency that is up-to-date and publicly accessible;[4] and

- Subtask 4: Develop a "toolkit" of in-kind staff support and/or services for all constituencies.[5]

The Work Team completed the recommendations for Subtask 4, the toolkit of services, ahead of the other subtasks and submitted these recommendations separately to the OSC for review. The OSC approved the recommendations with modifications and submitted them to the GNSO Council, which voted to accept the recommendations on 17 December 2009 and staff work on implementation is underway.

Background

The BGC WG Report 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."[6] In particular, the BGC WG was concerned to reduce entry barriers to active participation in Constituencies.[7] The BGC WG's recommendation was for the development of common operating procedures while recognizing some variation as acceptable.[8] The BGC WG recommendations also noted that ICANN is engaged in initiatives to improve accountability and transparency and noted that the GNSO Council and Constituency

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[4] Ibid.

[5] Ibid.

[6] The BGC summarized this in the following action item at page 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." See: <http://www.icann.org/en/topics/gnso-improvements/gnso-improvements-report-03feb08.pdf>.

[7] See BGC Report page 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." See: <http://www.icann.org/en/topics/gnso-improvements/gnso-improvements-report-03feb08.pdf>.

[8] See BGC Report page 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." See: <http://www.icann.org/en/topics/gnso-improvements/gnso-improvements-report-03feb08.pdf>.

processes should adhere to the highest standards in this regard.[9] In developing its recommendations the Work Team considered also the ICANN Bylaws, which state at Article II, Subsection 1, "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.[10]

In developing their recommendations, the Subtask Work Teams considered diverse practices and procedures currently in use by the constituencies and stakeholder groups. A detailed analysis was compiled.[11] In addition, the Subtask 2 Work Team considered approaches to participation and operational rules by other consensus based multi-stakeholder organizations such as those referenced by the BGC Report including the Internet Engineering Task Force (IETF), the World Wide Web Consortium (W3C), the Réseaux IP Européens (RIPE), the Latin American and Caribbean Internet Addresses Registry (LACNIC), the World Internet Technology Services Alliance (WITSA), the International Chamber of Commerce (ICC), and an independent review of Internet governance entities conducted by the Council of Europe.[12]

When the BGC WG made its initial recommendations, the concept of Stakeholder Groups (SGs) as part of the GNSO Council structure had not yet been implemented. Since then SGs have become an essential element of the GNSO Council along with Constituencies. Thus, unless otherwise stated, these recommendations apply to both Constituencies and Stakeholder Groups, referred collectively in the recommendations as "Groups." In addition, the meaning of the word "should" as used in the following recommendations is "mandatory" unless otherwise specified.

2. Recommendations

The following recommendations are arranged in three sections:

- Section 2.1: Recommendations for a set of participation rules and operating procedures, which all Groups shall abide by;
- Section 2.2: Recommendations for clear operating principles for each Group to ensure that all Groups function in a representative, open, transparent and democratic manner; and

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[9] See BGC Report page 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..."
[10] See http://www.icann.org/en/general/bylaws.htm.

[11] See: "Revised Constituency Analysis" at: <https://st.icann.org/data/workspaces/icann-osc/attachments/constituency_operations_team:20090710070126-0-21325/original/GNSO%20OSC-CSG%20WT%20Task%201%20Constituency%20Analysis%20V4--%20RrC%20edits%20070909.doc>.
[12] See
<http://www.coe.int/t/dgap/democracy/activities/ggis/Public_participation_internet_governance/Internet_Governance_Report_Souter_May09.pdf>.

- Section 2.3: Recommendations for creating and maintaining a database of all Group members and others not formally a part of any Group that is up-to-date and publicly accessible.

2.1 Participation Rules and Operating Procedures

The following sections address the BGC WG's recommendation that Groups shall establish and abide by a set of participation rules and operating procedures.

2.1.1 Participation Principles

All Stakeholder Groups/Constituencies (here-in-after called Groups) should adopt the rules below for participation. Such rules and procedures should be part of their Charters.[13]

a. All Groups should adopt these rules for participation to encourage openness, transparency and accountability. These rules and any other rules governing participation should be objective, standardized and clearly stated.[14] For the avoidance of doubt, while commonality is encouraged in the interest of simplification, Groups are not required to have identical rules and variation between Groups is acceptable, as appropriate.

b. Groups should have their participation rules based on common principles developed by the GNSO. These rules then should be made available in English and the five United Nations languages – Chinese, Russian, Arabic, Spanish, and French – so that ICANN's global audience can understand them.[15]

c. All Groups should strive to improve inclusiveness and representativeness. Groups should have either a differential fee structure based on the ability to pay, in order to encourage increased representation from those living in less developed economies, or hardship provisions that entitle any potential member to apply for relief from the normal fee scale.[16]

d. All Groups should strive to remove information barriers and put in place well-structured outreach programs so that many potential stakeholders come to know of their existence and also of the benefits in being part of the ICANN policy process, thereby becoming more aware of the value of joining the GROUP.[17]

2.1.2 Membership[18]

a. All Groups should make and publish rules and procedures for admission requirements of interested parties as Members in clear and simple terms. Such rules and procedures should be part of their Charters.

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[13] See Board Governance Committee (BGC) GNSO Review Working Group Report on GNSO Improvements, page 45, last paragraph.
[14] Ibid, page 43, paragraph 1.
[15] Ibid, page 42, paragraph 5.
[16] Ibid, page 41, last paragraph.
[17] Ibid, page 42, paragraph 4.
[18] Ibid, page 43, paragraph 2.

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b. All Groups should abide by rules governing membership, which are based on common principles. All Group members should have rights, duties and responsibilities and in particular, rights to vote as applicable as per Group membership rules.

c. All Groups must offer membership to natural persons or individuals (if applicable) as well as to entities with legal personality such as corporations. However, any person or organization applying for membership should meet the membership criteria laid down by the Group with ICANN's approval.

d. All Groups should stipulate the rights, duties, and responsibilities of its members in clear and simple terms and publish the same.

e. A simple application form should be devised for membership and it should be publicly available on the Group's website.

    1. Admission criteria should be predictable and objective and not arbitrary or discretionary. Where eligibility depends on participation in a certain sector of business, then applicants should be entitled to submit evidence of their participation in that sector.

    2. The general membership should be entitled to object to an application for membership provided that such objection is based on predictable and objective membership criteria. Such an objection should be published to the Group members.

    3. In applying for membership an applicant thereby agrees to abide by the written rules and regulations, including charters and bylaws, of the Group and terms and conditions laid down by it.

f. Status of a new application and admission decision, as far as possible, should be publicly available at the option of the applicant and an applicant should be advised of any objection to the application, be given the opportunity to ask clarifying questions about the objection, and be given the opportunity to reply with clarification or to reply in general.

g. In case of unfair treatment resulting in the rejection of an application or a dispute, the applicant may lodge a complaint with the ICANN Ombudsman or a mutually agreed upon non-biased neutral third party. The process for lodging a complaint with the Ombudsman is set forth in Article V of the ICANN Bylaws and in the Ombudsman Framework.[19]

h. Every member should remain in good standing until the Group has decided otherwise as per its Charter provisions. The reasons that such status can be imperiled should be certain and predictable and objective and not arbitrary or discretionary. In such an event, the member should be given an opportunity to be heard. Appropriate procedures should be made for such an eventuality. The affected party should have right of appeal to a neutral third party.

i. List of members and their contact details should be publicly available on the Group website. Individual members should have the right to have publication of address and other contact details withheld to protect their privacy. All members, unless otherwise

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[19] See <http://www.icann.org/ombudsman/documents/ombudsman-framework-26mar09-en.pdf>.

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stated should be eligible to participate in the business of the Group and have voting rights as applicable.

j. No legal or natural person should be entitled to join more than one Group as a voting member.

2.1.3 Policy and Consensus

a. All Group members should be eligible to participate in the Policy work of the Group and to join Committees formed to deal with policy issues and other Group issues, including eligibility of membership in the Group's committees.

b. Groups should refer to the GNSO Working Group model and guidelines for the purpose of reaching consensus and to improve accessibility, transparency, and accountability all Groups should establish and publish a consensus-building model or process that is publicly available to their membership and the community. The process or model should be based on the principles of participation, representativeness, process integrity, flexibility, transparency, openness, and other norms common to the GNSO Working Group model. Whatever consensus-building model or process a Group uses, the Group must describe the process and ensure that is publicly available to their membership and the community so it is visible and transparent.

2.2 Operating Principles

The following sections address the BGC WG's recommendations for clear operating principles for each Group to ensure that all Groups function in a representative, open, transparent and democratic manner

2.2.1 Term Limits

a. No person should serve as a Group Councilor 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. Any exception to this policy would require approval by the Group membership.

b. No person should serve as a Group Officer 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 Officer. Any exception to this policy would require approval by the Group membership.

c. No person should serve 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 Stakeholder Group Executive Committee member. Any exception to this policy would require approval by the Group membership.

2.2.2 Executive Committees

a. All Executive Committees must promptly publish action points, decisions, and any resolutions to Group members. It is recommended that prompt publication means

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within a reasonable period and a guideline is between 72 hours and 1 week of the relevant meeting.

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

2.2.3 Committees

a. Groups should 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.

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

c. The fact a Committee has been established and its membership should be made available to the entire Group membership and should be published on the Group website.

d. 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.

e. Going forward, Groups should publish to the Group membership a list of all active and inactive Committees and their final decisions, resolutions and final work products.

2.2.4 Communications

a. Group mailing lists should 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 should be made available to the entire Group membership unless there are valid grounds for restricting distribution.

d. All Groups should have a published Privacy Policy providing for the protection of the private data of members.

2.2.5 Elections

Groups should publish and maintain a list of all Office holders, past and present, to inform Group members and to provide transparency for term limits.

2.2.6 Voting

a. All Group Charters should clearly delineate the voting rights of all of their members.

b. All Groups should 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 should be entitled to join more than one Group as a voting member.

2.2.7 Charter Amendments

The procedure for amending Group Charters should be stipulated therein.

2.2.8 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.

b.   Minutes should 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.

2.2.9 Policy

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

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

c.   Policy Committee meetings should be open for attendance by all Group members.

2.2.10 GNSO Working Group (WG)

a.   Any individual participant of a Group should be entitled to join any GNSO WG in an individual capacity and Groups should publish and advise all members of the call for WG participants.

b.   Groups should 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.

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.

2.3 Group Membership Database

The following sections address the BGC WG's recommendations for creating and maintaining a database of all Group members and others not formally a part of any Group that is up-to-date and publicly accessible.

2.3.1 Database Architecture

a. The system must allow users a reasonable level of privacy they desire and/or that is required by their local governments.

b. The data scheme/relationship should segment database in a hierarchical fashion with segmentation based on various Communities, Stakeholder Groups (SG) and Constituencies. This should also include Working Groups, drafting teams and other groups that may be used in the GNSO policy development process herein after referred to as Groups.

c. Access to the system could be a link that takes the user to a landing page, which looks similar to the diagram included in this document as Figure 1. As users click on the various boxes they will be taken to the associated member list.

d. Each category of Group will be represented by a link on the main portal contact page. When a link is clicked the user will be taken to another landing page where the various options for that Group are represented. Depending on the number of layers associated with a given Group there will be additional landing pages one is directed to, eventually reaching a page containing all member or member delegate participants for that Group.

e. A systems operator (Operator) and maintenance resource, as well as a backup should be provided by ICANN and will be responsible for adding and/or deleting members or member delegates from the various Group member lists. The Operator will be responsible for validating, to the best of his/her ability, the existence of Group members.

f. Individuals and organizations that wish to be a member of a Group can notify the Operator of their member or member delegate status for a given Group. The Operator will then verify the member or member delegate's membership. Once the membership is confirmed, the Operator will send a notification to the member or member delegate providing access to the member database (similar to what we see today on websites such as LinkedIn or Facebook).

g. Once notified by the Operator, member or member delegates can enter their contact details. Contact details will vary based on the type of member (individual or entity), and member type should be one of the details noted in the database. Examples of contact details are: member type (individual or organization), company name, family name, given name, address, telephone, fax, email, etc.

h. To respect member or member delegate's privacy, the system will allow member or member delegates to select what information is visible to the public. There should be a minimum amount of information available such as member or member delegates' names, whether they are a voting member, and how they are affiliated with the respective Community, SG or Constituency, except in those cases where doing so creates a hardship or dangerous circumstances for the member or member delegate (to be determined by the privacy policy).

i. The system should also indicate member or member delegate's status in the Group they are a part of including: whether they hold an Executive, Council, Board, Nominating Committee position and if so what it is; whether they are an active or inactive member or member delegate, a voting member or member delegate, an interested party; and what working groups—if any—they are participating in.

j. The system must also provide features for member or member delegates to self-select communications and alerts they wish to receive and the frequency.

k. The system should be as scalable as possible, so future functionalities can be added. For example: ability to upload a profile picture, chat, etc.

l. The system's architecture/design should tie back to other OSC initiatives related to communications.

2.3.2 Storing and Updating Membership Records

a. Membership systems of Groups must ensure appropriate privacy measures for those individuals and organizations that are member or member delegates.

b. Membership records should be updated by the member or member delegates themselves, and as stated in 2.3.1 above.

c. Membership in a particular Group would be granted by the Operator. The Operator should also have the ability to set a member or member delegate to inactive.

d. The Operator should perform the updates to those holding an executive position in an ICANN community.

Comment: The Group probably needs to define 'inactive'. We do that in the RySG Charter.

Comment: What does this mean?

2.3.3 GNSO Discussion List

a. The system should include a discussion list, however a generic "GNSO-discussion list" is not recommended as it has been tried in the past and was abused to the extent that most members of the ICANN community discontinued their use of it.

b. The discussion list format should be similar to that which is used today, that is, permission for access to the discussion lists should be determined by the Group with rights extended by invitation from the Operator.

c. ICANN should provide the infrastructure and an IT specialist should organize it and provide documented requirements.

3. Minority Recommendations

Insert text when available.

Appendix A: Minority Reports

Insert Reports