

## **Annex A: GNSO Policy-Development Process**

The following process shall govern the GNSO policy development process ("PDP") until such time as modifications are recommended to and approved by the ICANN Board of Directors ("Board").

### **1. Raising an Issue**

An issue may be raised for consideration as part of the PDP by any of the following:

- a. *Board Initiation.* The Board may initiate the PDP by instructing the GNSO Council ("Council") to begin the process outlined in this Annex.
- b. *Council Initiation.* The GNSO Council may initiate the PDP by a vote of at least twenty-five percent (25%) of the members of the Council present at any meeting in which a motion to initiate the PDP is made.
- c. *Advisory Committee Initiation.* An Advisory Committee may raise an issue for policy development by action of such committee to commence the PDP, and transmission of that request to the GNSO Council.

### **2. Creation of the Issue Report**

Within fifteen (15) calendar days after receiving either (i) an instruction from the Board; (ii) a properly supported motion from a Council member; or (iii) a properly supported motion from an Advisory Committee, the Staff Manager will create a report (an "Issue Report"). Each Issue Report shall contain at least the following:

- a. The proposed issue raised for consideration;
- b. The identity of the party submitting the issue;
- c. How that party is affected by the issue;
- d. Support for the issue to initiate the PDP;
- e. A recommendation from the Staff Manager as to whether the Council should initiate the PDP for this issue (the "Staff Recommendation"). Each Staff Recommendation shall include the opinion of the ICANN General Counsel regarding whether the issue proposed to initiate the PDP is properly within the scope of the ICANN policy process and within the scope of the GNSO. In determining whether the issue is properly within the scope of the ICANN policy process, the General Counsel shall examine whether such issue:
  1. is within the scope of ICANN's mission statement;
  2. is broadly applicable to multiple situations or organizations;

3. is likely to have lasting value or applicability, albeit with the need for occasional updates;
  4. will establish a guide or framework for future decision-making; or
  5. implicates or affects an existing ICANN policy.
- f. On or before the fifteen (15) day deadline, the Staff Manager shall distribute the Issue Report to the full Council for a vote on whether to initiate the PDP, as discussed below.

### **3. Initiation of PDP**

The Council shall initiate the PDP as follows:

- a. *Issue Raised by the Board.* If the Board directs the Council to initiate the PDP, then the Council shall meet and do so within fifteen (15) calendar days after receipt of the Issue Report, with no intermediate vote of the Council.
- b. *Issue Raised by Other than by the Board.* If a policy issue is presented to the Council for consideration via an Issue Report, then the Council shall meet within fifteen (15) calendar days after receipt of such Report to vote on whether to initiate the PDP. Such meeting may be convened in any manner deemed appropriate by the Council, including in person, via conference call or via electronic mail.
- c. *Vote of the Council.* A vote of more than 33% of the Council members present in favor of initiating the PDP will suffice to initiate the PDP; unless the Staff Recommendation stated that the issue is not properly within the scope of the ICANN policy process or the GNSO, in which case a Supermajority Vote of the Council members present in favor of initiating the PDP will be required to initiate the PDP.

### **4. Commencement of the PDP**

At the meeting of the Council initiating the PDP, the Council shall decide, by a majority vote of members present at the meeting, whether to appoint a task force to address the issue. If the Council votes:

- a. In favor of convening a task force, it shall do so in accordance with the provisions of [Item 7 below](#).
- b. Against convening a task force, then it will collect information on the policy issue in accordance with the provisions of [Item 8 below](#).

### **5. Composition and Selection of Task Forces**

- a. Upon voting to appoint a task force, the Council shall invite each of the constituencies of the GNSO to appoint one individual to participate in the task force. Additionally, the Council may appoint up to three outside advisors to sit on the task force. (Each task force member is referred

to in this Annex as a "Representative" and collectively, the "Representatives"). The Council may increase the number of Representatives per constituency that may sit on a task force in its discretion in circumstances that it deems necessary or appropriate.

b. Any constituency wishing to appoint a Representative to the task force must submit the name of the constituency designee to the Staff Manager within ten (10) calendar days after such request in order to be included on the task force. Such designee need not be a member of the Council, but must be an individual who has an interest, and ideally knowledge and expertise, in the area to be developed, coupled with the ability to devote a substantial amount of time to task force activities.

c. The Council may also pursue other options that it deems appropriate to assist in the PDP, including appointing a particular individual or organization to gather information on the issue or scheduling meetings for deliberation or briefing. All such information shall be submitted to the Staff Manager within thirty-five (35) calendar days after initiation of the PDP.

## **6. Public Notification of Initiation of the PDP**

After initiation of the PDP, ICANN shall post a notification of such action to the Website. A public comment period shall be commenced for the issue for a period of twenty (20) calendar days after initiation of the PDP. The Staff Manager, or some other designated representative of ICANN shall review the public comments and incorporate them into a report (the "Public Comment Report") to be included in either the Preliminary Task Force Report or the Initial Report, as applicable.

## **7. Task Forces**

a. *Role of Task Force.* If a task force is created, its role will generally be to (i) gather information detailing the positions of formal constituencies and provisional constituencies, if any, within the GNSO; and (ii) otherwise obtain relevant information that will enable the Task Force Report to be as complete and informative as possible.

The task force shall not have any formal decision-making authority. Rather, the role of the task force shall be to gather information that will document the positions of various parties or groups as specifically and comprehensively as possible, thereby enabling the Council to have a meaningful and informed deliberation on the issue.

b. *Task Force Charter or Terms of Reference.* The Council, with the assistance of the Staff Manager, shall develop a charter or terms of reference for the task force (the "Charter") within ten (10) calendar days after initiation of the PDP. Such Charter will include:

1. the issue to be addressed by the task force, as such issue was articulated for the vote before the Council that commenced the PDP;
2. the specific timeline that the task force must adhere to, as set forth below, unless the Board determines that there is a compelling reason to extend the timeline; and

3. any specific instructions from the Council for the task force, including whether or not the task force should solicit the advice of outside advisors on the issue.

The task force shall prepare its report and otherwise conduct its activities in accordance with the Charter. Any request to deviate from the Charter must be formally presented to the Council and may only be undertaken by the task force upon a vote of a majority of the Council members present.

*c. Appointment of Task Force Chair.* The Staff Manager shall convene the first meeting of the task force within five (5) calendar days after receipt of the Charter. At the initial meeting, the task force members will, among other things, vote to appoint a task force chair. The chair shall be responsible for organizing the activities of the task force, including compiling the Task Force Report. The chair of a task force need not be a member of the Council.

*d. Collection of Information.*

1. *Constituency Statements.* The Representatives will each be responsible for soliciting the position of their constituencies, at a minimum, and other comments as each Representative deems appropriate, regarding the issue under consideration. This position and other comments, as applicable, should be submitted in a formal statement to the task force chair (each, a "Constituency Statement") within thirty-five (35) calendar days after initiation of the PDP. Every Constituency Statement shall include at least the following:

(i) If a Supermajority Vote was reached, a clear statement of the constituency's position on the issue;

(ii) If a Supermajority Vote was not reached, a clear statement of all positions espoused by constituency members;

(iii) A clear statement of how the constituency arrived at its position(s). Specifically, the statement should detail specific constituency meetings, teleconferences, or other means of deliberating an issue, and a list of all members who participated or otherwise submitted their views;

(iv) An analysis of how the issue would affect the constituency, including any financial impact on the constituency; and

(v) An analysis of the period of time that would likely be necessary to implement the policy.

2. *Outside Advisors.* The task force, should it deem it appropriate or helpful, may solicit the opinions of outside advisors, experts, or other members of the public, in addition to those of constituency members. Such opinions should be set forth in a report prepared by such outside advisors, and (i) clearly labeled as coming from outside advisors; (ii) accompanied by a detailed statement of the advisors' (A) qualifications and relevant experience; and (B) potential conflicts of interest. These reports should be submitted in a formal statement to the task force chair within thirty-five (35) calendar days after initiation of the PDP.

e. *Task Force Report.* The chair of the task force, working with the Staff Manager, shall compile the Constituency Statements, Public Comment Report, and other information or reports, as applicable, into a single document ("Preliminary Task Force Report") and distribute the Preliminary Task Force Report to the full task force within forty (40) calendar days after initiation of the PDP. The task force shall have a final task force meeting within five (5) days after the date of distribution of the Preliminary Task Force Report to deliberate the issues and try and reach a Supermajority Vote. Within five (5) calendar days after the final task force meeting, the chair of the task force and the Staff Manager shall create the final task force report (the "Task Force Report") and post it on the Comment Site. Each Task Force Report must include:

1. A clear statement of any Supermajority Vote position of the task force on the issue;
2. If a Supermajority Vote was not reached, a clear statement of all positions espoused by task force members submitted within the twenty-day timeline for submission of constituency reports. Each statement should clearly indicate (i) the reasons underlying the position and (ii) the constituency(ies) that held the position;
3. An analysis of how the issue would affect each constituency of the task force, including any financial impact on the constituency;
4. An analysis of the period of time that would likely be necessary to implement the policy; and
5. The advice of any outside advisors appointed to the task force by the Council, accompanied by a detailed statement of the advisors' (i) qualifications and relevant experience; and (ii) potential conflicts of interest.

## **8. Procedure if No Task Force is Formed**

- a. If the Council decides not to convene a task force, the Council will request that, within ten (10) calendar days thereafter, each constituency appoint a representative to solicit the constituency's views on the issue. Each such representative shall be asked to submit a Constituency Statement to the Staff Manager within thirty-five (35) calendar days after initiation of the PDP.
- b. The Council may also pursue other options that it deems appropriate to assist in the PDP, including appointing a particular individual or organization to gather information on the issue or scheduling meetings for deliberation or briefing. All such information shall be submitted to the Staff Manager within thirty-five (35) calendar days after initiation of the PDP.
- c. The Staff Manager will take all Constituency Statements, Public Comment Statements, and other information and compile (and post on the Comment Site) an Initial Report within fifty (50) calendar days after initiation of the PDP. Thereafter, the PDP shall follow the provisions of Item 9 below in creating a Final Report.

## **9. Public Comments to the Task Force Report or Initial Report**

- a. The public comment period will last for twenty (20) calendar days after posting of the Task Force Report or Initial Report. Any individual or organization may submit comments during the public comment period, including any constituency that did not participate in the task force. All comments shall be accompanied by the name of the author of the comments, the author's relevant experience, and the author's interest in the issue.
- b. At the end of the twenty (20) day period, the Staff Manager will be responsible for reviewing the comments received and adding those deemed appropriate for inclusion in the Staff Manager's reasonable discretion to the Task Force Report or Initial Report (collectively, the "Final Report"). The Staff Manager shall not be obligated to include all comments made during the comment period, including each comment made by any one individual or organization.
- c. The Staff Manager shall prepare the Final Report and submit it to the Council chair within ten (10) calendar days after the end of the public comment period.

## **10. Council Deliberation**

- a. Upon receipt of a Final Report, whether as the result of a task force or otherwise, the Council chair will (i) distribute the Final Report to all Council members; and (ii) call for a Council meeting within ten (10) calendar days thereafter. The Council may commence its deliberation on the issue prior to the formal meeting, including via in-person meetings, conference calls, e-mail discussions or any other means the Council may choose. The deliberation process shall culminate in a formal Council meeting either in person or via teleconference, wherein the Council will work towards achieving a Supermajority Vote to present to the Board.
- b. The Council may, if it so chooses, solicit the opinions of outside advisors at its final meeting. The opinions of these advisors, if relied upon by the Council, shall be (i) embodied in the Council's report to the Board, (ii) specifically identified as coming from an outside advisor; and (iii) be accompanied by a detailed statement of the advisor's (x) qualifications and relevant experience; and (y) potential conflicts of interest.

## **11. Council Report to the Board**

The Staff Manager will be present at the final meeting of the Council, and will have five (5) calendar days after the meeting to incorporate the views of the Council into a report to be submitted to the Board (the "Board Report"). The Board Report must contain at least the following:

- a. A clear statement of any Supermajority Vote recommendation of the Council;
- b. If a Supermajority Vote was not reached, a clear statement of all positions held by Council members. Each statement should clearly indicate (i) the reasons underlying each position and (ii) the constituency(ies) that held the position;
- c. An analysis of how the issue would affect each constituency, including any financial impact on the constituency;

- d. An analysis of the period of time that would likely be necessary to implement the policy;
- e. The advice of any outside advisors relied upon, which should be accompanied by a detailed statement of the advisor's (i) qualifications and relevant experience; and (ii) potential conflicts of interest;
- f. The Final Report submitted to the Council; and
- g. A copy of the minutes of the Council deliberation on the policy issue, including the all opinions expressed during such deliberation, accompanied by a description of who expressed such opinions.

## **12. Agreement of the Council**

A Supermajority Vote of the Council members will be deemed to reflect the view of the Council, and may be conveyed to the Board as the Council's recommendation. Abstentions shall not be permitted; thus all Council members must cast a vote unless they identify a financial interest in the outcome of the policy issue. Notwithstanding the foregoing, as set forth above, all viewpoints expressed by Council members during the PDP must be included in the Board Report.

## **13. Board Vote**

- a. The Board will meet to discuss the GNSO Council recommendation as soon as feasible after receipt of the Board Report from the Staff Manager.
- b. In the event that the Council reached a Supermajority Vote, the Board shall adopt the policy according to the Council Supermajority Vote recommendation unless by a vote of more than sixty-six (66%) percent of the Board determines that such policy is not in the best interests of the ICANN community or ICANN.
- c. In the event that the Board determines not to act in accordance with the Council Supermajority Vote recommendation, the Board shall (i) articulate the reasons for its determination in a report to the Council (the "Board Statement"); and (ii) submit the Board Statement to the Council.
- d. The Council shall review the Board Statement for discussion with the Board within twenty (20) calendar days after the Council's receipt of the Board Statement. The Board shall determine the method (e.g., by teleconference, e-mail, or otherwise) by which the Council and Board will discuss the Board Statement.
- e. At the conclusion of the Council and Board discussions, the Council shall meet to affirm or modify its recommendation, and communicate that conclusion (the "Supplemental Recommendation") to the Board, including an explanation for its current recommendation. In the event that the Council is able to reach a Supermajority Vote on the Supplemental Recommendation, the Board shall adopt the recommendation unless more than sixty-six (66%) percent of the Board determines that such policy is not in the interests of the ICANN community or ICANN.

f. In any case in which the Council is not able to reach Supermajority, a majority vote of the Board will be sufficient to act.

g. When a final decision on a GNSO Council Recommendation or Supplemental Recommendation is timely, the Board shall take a preliminary vote and, where practicable, will publish a tentative decision that allows for a ten (10) day period of public comment prior to a final decision by the Board.

#### **14. Implementation of the Policy**

Upon a final decision of the Board, the Board shall, as appropriate, give authorization or direction to the ICANN staff to take all necessary steps to implement the policy.

#### **15. Maintenance of Records**

Throughout the PDP, from policy suggestion to a final decision by the Board, ICANN will maintain on the Website, a status web page detailing the progress of each PDP issue, which will describe:

- a. The initial suggestion for a policy;
- b. A list of all suggestions that do not result in the creation of an Issue Report;
- c. The timeline to be followed for each policy;
- d. All discussions among the Council regarding the policy;
- e. All reports from task forces, the Staff Manager, the Council and the Board; and
- f. All public comments submitted.

#### **16. Additional Definitions**

"Comment Site" and "Website" refer to one or more web sites designated by ICANN on which notifications and comments regarding the PDP will be posted.

"Staff Manager" means an ICANN staff person(s) who manages the PDP.

"Supermajority Vote" means a vote of more than sixty-six (66) percent of the members present at a meeting of the applicable body.

END