

PDP-WT Survey Results – Stage V

Policy Effectiveness and Compliance – 9 February 2010

1&2. Name & Affiliation

#	Response
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Periodic Assessment of PDP Recommendations / Policy

3. What metrics would need to be developed in order to assess the effectiveness of the PDP recommendations and/or policy?

#	Response
1	One would need to measure both effectiveness at solving the targeted issue and any unexpected consequences, especially any negative effects that had not been anticipated.
2	I think some methodology should be developed to determine the effectiveness and productivity of a PDP's recommendations or policy initiatives.
3	In order to understand the success metrics, the Harm that the PDP set out to address must first be quantified. For example, in terms of frequency of abuse or incidents, or a projected costs incurred. Only when the problem is stated in measurable terms, can the solution's efficacy also be measured.
4	Depends on the nature of the outcome. If the PDP was initiated to solve a problem, the metrics must relate to whether the problem was actually eliminated. If it was to launch something new (like the launch of new gTLDs for instance), the metrics must be broader and relate to the initial purpose. In addition, one could distinguish between assessing the effectiveness of the policy in achieving its goals, and the monitoring/enforcement of the policy itself.
5	1)Communication relevant to a PDP or policy 2)Its reference/use-by regions,community 3)Resolutions made grounded on the PDP/policy 4)Subsequent

	comments/input on new angles or requests for improvement
6	The GNSO should be integrated in the implementation process as a separate contributor - not only during the public comment period. An assessment schedule could be developed by the GNSO, e.g. 1, 3, 7 years after implementation or on general demand. Also an assessment scheme could be developed with general and specific criteria.
7	Depends on PDP.
8	It is necessary to create a table with criteria as a universe model (previous cases, juridical questions, etc.) and then add additional for each case. Or we can divided all cases in groups and then create for each one its own metrics, which can be added.

4. Would these metrics be replicable for each PDP or should clear objectives and metrics be established for each PDP?

#	Response		
1	While some things like measuring unexpected consequence and unexpected negative effects would be standard, effectiveness of solution might vary.		
2	I think likely clear objectives and metrics will need to be tailored to each PDP - I am not sure it would be possible to establish standard metrix that would fit all PDP's.		
3	Probably not, unless the harms are similar (and then why weren't they a combined PDP?). But in the general case I don't believe metrics will be interchangeable between PDPs, and may even change themselves over time. There could, however, be some common compliance metrics. Such as the number of registries / registrars to have adopted / implemented the policy, etc.		
4	As indicated above, metrics should be adapted to each PDP, according to its purpose. This does not prevent of course, some common elements to be included.		
5	Ideally should be for each PDP but resources (material, expertise and time) may not permit. Therefore it may be more practical to begin with a 'generic' approach replicable for each PDP		
6	See 3. It may be replicable with regards to the general assessment criteria to be established.		
7	Each PDP should establish, as much as is possible, clear objectives and metrics.		
8	These metric in general should be replicable for each PDP, but if needed they should be added for each case		

5. If a periodic assessment is considered inherent, should the timing for such an assessment be the same for every PDP?			
Yes		1	12%

No		4	50%
No strong view either way		1	12%
Other, please specify		2	25%
Total		8	100%

5. If a periodic assessment is considered inherent, should the timing for such an assessment be the same for every PDP?

#	Response		
1	Would be ideal if some kind of time table be suggested - but one that is felxible depeninding on the specifics of the PDP results.		
2	If the PDP is about solving a problem, the assessment should probably be faster than if it is about launching something new, where the main effects may take some time to reveal themselves.		

6. Who should be responsible for carrying out this assessment? And how/what should be done with the outcomes of the review / assessment?

#	Response		
1	Staff should carry it out with oversight by the GNSO Council or any group the council designates. For example, a WG could designate a small team of reviewers who remain on duty. In some case, especially if there is ongoing work to be done in the are, the WG might remain in place.		
2	ICANN Staff. Outcome should be made public and of course shared with the Board.		
3	In order to ensure objectivity and reliability of data, I would recommend ICANN Staff, either as a function of Compliance, or a dedicated team.		
4	This too can be varied. The PDP itself could envisage ad hoc mechanisms. It could in particular put in place continuous monitoring or indicators, or even set up a specific sub-body to ensure compliance. In certain cases, staff could be tasked with such assessment (by strengthening the compliance/enforcement component of staff), in other cases, this could be accomplished by a third party, and in some other, be done by a specifically-composed community gorup.		
5	The GNSO Council should appoint review teams. Review outcomes should be published for public comments which should inform if the PDP or policy needs to be updated.		
6	Since the GNSO council has set up the PDP - approved by the board - the council (maybe through its relevant WG) should be responsible for the assessment as well. The outcome should be aggregated into recommendations to be endorsed by the board. Public comment periods could be incorporated.		
7	Depends on PDP. Compliance, Policy and Legal staff could be involved. Community experts and advocates, too		
8	Interested parties should cooperate regarding these issue. For example, if we have complain about Registrar procedures, somebody from ICANN staff and Registrar's representatives should check effectiveness		

7. How should public comments or community input on the effectiveness of a policy be factored in?

#	Response		
1	Depends on the policy and who it affects. could be a statistical study or it could be an anecdotal recording.		
2	They should be weighed and incorporated when appropriate or feasible.		
3	I think the policy assessment would likely generate a report, which could be published and open for comment. If the community feels strongly that the policy should be revised or rescinded, they can move to requesting an issues report, citing the policy assessment.		
4	Whatever the mechanism, opportunities for community input are needed. This can take the form of permanently open reporting space (for the monitoring of actual implementation and respect by actors) or special call for comments if the review is temporally bounded (for the periodic review of the policy in general).		
5	They may be compiled and compared against the original PDP/Policy object and effectiveness metrics. The process would cushion a PDP or policy from futuristically speaking -'seasonal' positions taken.		
6	see 6.		
7	Like any public comments; have an open period, summarize and inputs, and make a judgment re: whether they are consistent with any other analysis of the issue.		
8	It depends on the case. Sometimes it is possible to open public comments after procedure application		

8. How should compliance with a new policy or policy elements be assessed and factored in? E.g. Should an audit be part of the metrics / assessment of a policy?

#	Response		
1	Seems like a reasonable approach.		
2	I am not sure how to address this issue.		
3	Really difficult to say in the general case, but these could be a part of some assessments, depending upon the nature of the policy.		
4	See above. Compliance with the policy is an important element of the evaluation of the effectiveness of a policy. an excellent policy in theory, that is neither respected nor rigorously enforced is a bad policy in practice. Permanent monitoring tools that allow stakeholders to report infringements can feed into periodic evaluation of the whole policy. An audit is a possibility, but it should ideally build upon regular assessment of compliance. Actually this question is essential. ICANN has not given the impression that it devotes sufficient attention to the respect of its policies. An important example in point is the ongoing non-respect of the .pro registry agreement that has completely overturned the intended purpose of the TLD.		
5	New policies ought not to negate earlier ones. Therefore, Yes, and audit should be part of the metrics and policy effectiveness. This should further assist in		

	pre-assessing likely effectiveness of a new policy or PDP
6	don't understand. Do you mean an evaluation of new policy against existing ones?
7	Again, depends on PDP issue. Some policy work may not lend itself to an audit.
8	Interested parties should cooperate regarding these issue.

9. What role, if any, should the WG have in proposing or developing performance metrics?

#	Response
1	It would be a good part of their deliverables - though they can't be expected to be professionals at designing a well formed, valid activity, they can indicate what things to look for.
2	I think the WG should ideally make proposals that are then vetted and refined regarding performance metrics for its work.
3	I feel strongly that the WG must be fully engaged in this. They must first propose the harm in a measurable, quantifiable way. (Note: If the WG cannot do this, then what, specifically, is their purpose?) Upon being able to quantify the problem, the success metrics will flow naturally from these. For example, if the problem is "Condition X occurs at an unacceptable rate of 1 per 10,000 of gTLDs," then clearly the success metric would be to shift this to a more acceptable frequency.
4	Depending on the issue, the Working Group should integrate the identification of appropriate metrics (including compliance monitoring) into the proposed policy.
5	The WG being most acquainted with the object and purpose at development stages should propose the criteria to be used. If their original members are available, ready, willing and able to participate at subsequent reviews, the Council should involve them. This would additionally boost 'institutional memory' But the process must remain open to newcomers who would inject new perspectives and stakeholders interests
6	see 6.
7	Issues Report could suggest metrics; WG should refine proposals based on work.
8	It can propose initial metrics for rewing.

GNSO Council Review of the PDP WG

10. Should the GNSO Council be required to conduct an assessment at the end of a PDP process?			
Yes		4	50%
No		1	12%
No strong view either way		1	12%
Other, please specify		2	25%
Total		8	100%

10. Should the GNSO Council be required to conduct an assessment at the end of a PDP process?

#	Response		
1	Could be optional, but not required.		
2	The expression "at the end of a PDP" is ambiguous. The end of a PDP is the moment when the policy is actually endorsed by the Board and made operational. the evaluation and assessment should take place later on, once the policy has been implemented and its effects can be evaluated. Once again, this can come at different stages, depending on the policy itself.		

11. If yes, what elements should be included in this process? The BGC WG reports suggests checking: Does the scoping of the issue remain valid Are all relevant stakeholders aware of, and involved in the process Has no one stakeholder group is dominating the process Are any necessary expert opinions provided Data has been provided and used where appropriate Can the proposed policy be implemented

#	Response		
1	Seems like a good set of questions. I would also recommend due diligence on the consensus reached and the handling of disputes and alternate viewpoints.		
2	I think the above factors would be very helpful to assist the GNSO Council with its assessment of a PDP's work.		
3	This list appears to be comprehensive.		
4	This question explains a little bit better what was meant in the previous question. what is at stake here is twofold : - the criteria that the gNSO will use in its discussion whether to endorse the policy presented by the Working Group (there can be cases where the group has reached a consensus but the gNSO		

	believes that some of the elements listed above are missing) - the possibility of appeals or requests for reconsideration if other actors in the community feel that those elements are missing.
5	all of the above
6	I think these elements should already be checked during the PDP.
7	Depends on whether issue lends itself to such analysis. Council is already busy; don't require more work if it's not necessary.
8	all above

12. If the elements identified in the previous question are not met, what should the role of the GNSO Council be to ensure that these get addressed?

#	Response		
1	Depends. In some cases send questions back to the WG, and in some cases ask them to do some more work. In other cases, attach a note to the report indicating the council view of the deficiencies in the process for Board approval. This should only be done in cases where the council can't come up with a way to remediate.		
2	Yes.		
3	The Council could formally request additional work or clarifications from the WG before proceeding with the PDP recommendations. Or it could reject the recommendations entirely, and send them back to the WG for revision.		
4	As stated in the previous question, a large part of the answer lies in stating that the Council has a "process responsibility" to ensure that the consensus presented is indeed a real consensus and that the proposed policy can be implemented. This is coherent with the notion that the gNSO should evolve into a less "legislative" function and more into a steering function. The Council should become the guarantor that "due process" has been respected. The Council should not endorse and forward to the Board a policy that it believes does not meet the above criteria.		
5	Consider if to return recommendations with comments to the WG or to reconstitute it afresh.		
6	No approval as long as they are not met		
7	Could send the issue back to the WG for additional effort.		

Periodic Assessment of the Overall PDP Process

13. What metrics would need to be developed in order to assess the effectiveness of the PDP process as a whole?

#	Response		
1	- Time to completion. - Summary of the effectiveness and negative effects from the review of individual reviews - Record of compliance - Public comments over time and at review time.		

2	A way to assess the effectiveness of the PDP process from the identification of an issue, the formation of a WT, and its final recommendations.
3	No strong feelings, but this could be discussed as part of the Prioritization effort. Are there "too many" PDPs, or "too few?" Is the GNSO community working on the "right" issues?
4	At first glance, and without prejudging from other potential elements, there should be at least : - how often the policy process has actually been used in a given period (it is interesting to note for instance that the ccNSO has barely used its own PDP, probably indicating that it is not appropriately formatted) - whether the timelines have been respected - whether the evaluation of the effectiveness of the various PDPs (see above mechanisms) has been positively evaluated - whether the consensus-building process has correctly functioned (no request for revision by the gNSO or appeals by the community)
5	1) Diversity of and participation of stakeholders on the PDP development 2) The frequency of meetings and the number of contributions made 3) Significant emerging issues raised during the development - points to the quality of WG conversations
6	The overall process should not be reviewed too often, maybe every 5 years. It could be done by an external professional - under the clear guidance of the council and the related WG.
7	Depends on the issues. No one size fits all.
8	If the model or rule can be applied for all interested parties, if there are no complaints regarding cases which are connected with the resolved one, if there are no visible non resolved issues.

14. What would be a realistic timeframe for conducting such a periodic assessment?

#	Response
1	Yearly
2	Every several years.
3	No opinion.
4	Every three years.
5	60-90 days
6	see 13.
7	Depend on the issue. No one size fits all. More critical issues/threats should be assessed sooner rather than later.
8	From 2 to 6 months

15. Who should be responsible for carrying out this assessment? And how/what should be done with the outcomes of the review / assessment?

#	Response
1	A Council appointed group. It should be published and any deficiencies should be fixed by an effort similar to the PPSC/PDP WT. I personally think the

	PPSC should be a standing committee that reviews the working of WG and of the PDP on a yearly basis and is available for dealing with other procedures problems that might arise in these areas.
2	CANN Staff with overview by the GNSO Council.
3	The models employed in the current GNSO Improvements effort could be used again.
4	This should be part of the Accountability and Transparency Review mechanism established by the Affirmation of Commitments (first Review panel). Hence the three year period indicated in the question above.
5	Perhaps a standing/sitting committee should be appointed considering that the GNSO Council may have a lot of work to be expected to additionally take on this new role
6	The PDP Working Team should be responsible. Recommendations to be council- and board-approved.
7	See previous response re: Staff and community experts/advocates
8	It should be report of the head of assessment group