Design Phase Concept Paper

Discussion Draft

Purpose

This paper proposes an Operational Design Phase that is to become part of the policy and implementation life cycle. Such a Phase is to transparently inform the ICANN Board of Directors' (Board) consideration of Generic Names Supporting Organization (GNSO) Council-approved consensus policy recommendations. The Operational Design Phase will be initiated by the Board and include two tracks of activity: ICANN org's assessment of the impact of proposed policy recommendations; and the opportunity for community feedback on such an assessment. Combined, both tracks of the Operational Design Phase will:

- Enable risks, options, and costs to be better understood before the Board commits resources to an initiative;
- Create a mechanism that complements existing processes;
- Enable collective early identification of issues likely to cause implementation obstacles or delays;
- Provide a mechanism to test ideas and assumptions with the community before a decision is taken by the Board;
- Provide transparency into the analysis used to inform Board decisions;
- Enlist the help of relevant experts to identify potential implementation options to be analyzed and costed

This paper provides background information, establishes the guiding principles and rationale for the Phase, describes the Phase's activities, including timing considerations, and defines roles and responsibilities.

This concept paper is a discussion draft, on which ICANN org seeks community feedback.

Background

The GNSO is responsible for developing consensus policies relating to generic top-level domains via the multi-stakeholder policy development process (PDP). Once the GNSO Council

approves PDP recommendations, the Board is required by the Bylaws to consider and determine whether these are "in the best interests of the ICANN community or ICANN." The Board does so in the context of its fiduciary responsibility, the alignment with the scope of ICANN's mission, its Bylaws, and the global public interest.

In 2015, the Consensus Policy Implementation Framework (CPIF) was collaboratively developed among ICANN org and the GNSO's Policy and Implementation Working Group. Among other things, the CPIF tasks ICANN org with preparing materials for Board consideration of policy recommendations following their approval by the GNSO Council. The increasing complexity of consensus policy recommendations drives a need for more institutional attention to design and planning as part of the preparation of these Board materials.

The proposed Operational Design Phase offers a structure and methodology for such preparation of Board materials, so that Board's decisions are informed by a clear understanding of, e.g., anticipated costs, resource requirements, and potential timelines for implementation.

Principles

The work of the Operational Design Phase should be based on the following underlying principles:

- The results of an Operational Design Phase should maintain fidelity to the underlying policy recommendations. If any policy recommendations are substantively impacted by the analysis, these should be returned to the GNSO Council and/or relevant PDP WG for further consideration.
- The Operational Design Phase should not create delays in the overall timeline to Board consideration.
- The work in the Operational Design Phase does not replace the implementation work of ICANN org with the Implementation Review Team (IRT), which occurs after the Board approves policy recommendations.
- Affected stakeholders should have the ability to provide input to the work of the Board, ICANN org, and the community in the Operational Design Phase.

Rationale

The Operational Design Phase is proposed as part of building out additional elements of the aforementioned CPIF. Once defined and formalized, this phase will help educate and inform not

just the Board but also the ICANN community by providing visibility into ICANN org's work leading up to a Board consideration. The operational design work will therefore improve the Board's, org's and community's understanding of possible challenges to future policy implementation, therefore increasing predictability and efficiency.

By modelling future operations, the Operational Design Phase provides a better understanding of the implementation process, identifies resource requirements, informs timing assumptions, and, to the extent that there are gaps or questions about implementability, provides an opportunity to course-correct prior to Board consideration. Formalizing such a phase will also helpfully distinguish the nature of the work of this phase from that which occurs during policy development and policy implementation.

It is important to note that the outcome of the Operational Design Phase cannot change or supplant bottom-up policy recommendations. Rather, any policy questions or issues identified during this phase that are critical to the design must be raised to the GNSO. Neither does the Phase replace the work of ICANN org and the community as part of the IRT _after_ the Board has approved policy recommendations. Rather, the work done during the Operational Design Phase could help provide a foundation for the policy's eventual implementation, providing the org, IRT, and other bodies (e.g., IETF) with relevant implementation details.

The full Operational Design Phase may not be needed in the case of every PDP result; for example, if policy recommendations are relatively straightforward and require little change or technical infrastructure, the Board could determine that this phase should be abbreviated or is not needed.

This proposal is informed by and intended for use in the Board's consideration of policy recommendations. However, subject to experience, an Operational Design Phase could be applied to other scenarios such as review team recommendations and other community-derived initiatives.

Description of Activities

As noted above, the proposed phase encompasses both operational analysis by ICANN org and a mechanism for community stakeholders to consider, corroborate, and, if necessary, add to the information that is being shared with the Board. The Operational Design Phase ends when the

Board considers the GNSO Council-approved recommendations and, thus, there are timing considerations to take into account, too.

ICANN Org: Operational Design Assessment

The ICANN Board initiates this process by passing a resolution to request the President & CEO to initiate the Operational Design Phase and specifying the expected scope of the design work as well as other relevant parameters subject to the nature of the relevant PDP recommendations. An individual designated by the CEO with subject matter expertise will be tasked with leading and managing the work and reporting back to the CEO. The Board may designate one or more of its directors to work with the ICANN org team to deliver the requested assessment.

This assessment is structured around a series of information requests established by the Board, which identifies questions and information it believes are necessary to understand the impact and organizational implications of a set of policy recommendations. Such requests could include the following:

- Analysis of cost estimates and fiscal impact under different design scenarios
- Preliminary definition of design requirements and workflows, for assessment of technical decisions
- Questions to inform execution of Request for Information (RFI) processes from potential service providers, if applicable
- Identification of other organizations or stakeholder groups affected and who should be consulted and/or alerted
- Preliminary risk analysis and mitigation plans for different design scenarios
- Gap analysis as to current state and feasibility of design options
- Identification of dependencies to other recommendations, advice, or policies, and possible resolutions or opportunities to streamline
- Resource scaling requirements for launch vs. ongoing operations
- Review of recommendations for consistency with ICANN Bylaws and applicable laws

The nature and scope of these "chartering" questions would be expected to be driven by the nature and scope of the policy recommendations under consideration. For example, one policy

may require extensive systems development, while another may consist mainly of procedural, reporting, or other requirements. This set of activities is provided for in the existing CPIF, which specifies that when policy recommendations require the creation of a new service or changes to an existing service, ICANN org will create draft requirements for systems and will coordinate with affected ICANN org teams to prepare for operational readiness, as needed.

ICANN org compiles the requested information and analysis into an Operational Design Assessment document. In cases where there is privileged or sensitive data relating to this work, the framework around the Operational Design Phase should address how this will be handled. The Operational Design Assessment, as the output of ICANN org's work during this phase, is informational in nature. That is, the document would not include implementation decisions or recommendations. When complete, the Operational Design Assessment would be passed on for community review via a Design Feedback Group.

Community: Design Feedback Group
As this phase occurs in the context of the multistakeholder model, it is important that, in keeping with ICANN's core values, the process be conducted in an open and transparent way.

A community-led Design Feedback Group (DFG) should consider and provide input on the operational design work conducted by ICANN org. The DFG would be a mechanism for the community to provide feedback on the ideas and assumptions in ICANN org's assessment before these are transmitted to the Board. DFG representatives would be selected based on defined qualifications, and they would assume responsibility for proactively seeking and coordinating feedback from their respective community groups.

The group will be expected to agree at the outset to a charter, operating procedures, and work plan. The charter would include a statement of work to define the group's scope and remit and ensure the group addresses the relevant questions posed to it. The operating procedures for the group should uphold the value of transparency, specify decision-making and agreement procedures, and provide for efficient administration. The work plan for the group would help track the activity to meet predetermined milestones using the allocated resources. While the specific work plans would vary, the charter and operating procedure should be consistent across different sets of policy recommendations

The group should not be a forum for revisiting existing policy decisions leading to the recommendations under consideration. Its role would be focused on and limited to reviewing the technical, operational, fiscal, and organizational considerations in the Operational Design Assessment, which in turn guide Board consideration and next steps. For example, the group's feedback could focus on:

- Additional points or information not included in the assessment.
- Identification of gaps or questions not yet addressed.
- Additional operational considerations from stakeholders expected to implement or use a new service or system.
- Suggestions as to where additional expertise or information could be obtained.
- Responses where specific inputs have been requested from the group.

The group's activity would be complete once its feedback to the Operational Design Assessment is provided. The Board is expected to review and take into account the information provided by the group prior to making its decision on the policy recommendations, and document in its rationale how this information was considered.

Timing Considerations

Given that this phase is intended to be a substantive part of the policy and implementation lifecycle, timing considerations are a critical part of establishing its structure. At a minimum, for both the ICANN org and DFG work, this structure should include defined timeframes to complete their respective deliverables.

It should be noted that the CPIF provides for preparation work to help inform implementation and operationalization throughout the policy life cycle in a variety of ways, including ICANN org monitoring and participating in policy development discussions as required or requested, to flag potential issues from an implementation perspective. The Board may also appoint one or more liaisons to a policy development process, to act as an information channel between the Board and the PDP working group.

As the Operational Design Phase is meant to bridge the GNSO Council approval and Board approval, the Council approval would be a logical trigger point for the Board to initiate the phase in line with the details provided above.

An alternative option would be for the Board to initiate the Operational Design Phase earlier, so that it begins during the later stages of the PDP. The Board's decision on such an earlier start should be informed by adequate consultation between the Board, the GNSO Council, the PDP Working Group leadership, and the org. While other factors may be of relevance, the Board would need to ensure, through these consultations, that, at a minimum, the PDP Working Group has made sufficient progress on key recommendations to ensure the Operational Design Phase will be both feasible and constructive.

In such a case (illustrated below), once initiated by the Board, ICANN org would conduct preliminary analysis and gather relevant information and data and, where relevant, ICANN org should share progress of its preliminary design work and engage constructively with the PDP Working Group to ensure that the PDP Working Group can use any relevant information to generate additional precision to its recommendations.

The Bylaws (Annex A, Section 9) require that "The Board will meet to discuss the GNSO Council recommendation as soon as feasible, but preferably not later than the second meeting after receipt of the Board Report from the Staff Manager." Accordingly, ICANN org and the DFG, as appropriate, should aim to update the Board on progress at the latest by the second meeting after the policy recommendations have been presented to the Board.

Section 3.1 of the ICANN Bylaws specifies that ICANN and its constituent bodies shall implement procedures to "provide advance notice to facilitate stakeholder engagement in policy development decision-making and cross-community deliberations." Typically, this occurs via a public comment period before the Board votes on policy recommendations delivered to it by the

GNSO. With the formalization of the Operational Design Phase, the work on the Operational Design Assessment and the Design Feedback Group could be incorporated into the public comment proceeding, to enable comment on the recommendations with the added context of the operational design work.

Roles and Responsibilities

To synthesize from the descriptions above, the following table notes the expected roles and responsibilities of each of the entities participating during the Operational Design Phase.

Entity	Relevant Roles & Responsibilities
PDP Working Group	● Develops policy recommendations through multistakeholder process ● Provides information and clarifications to ICANN org and Design Feedback Group where necessary
GNSO Council	● Approves policy recommendations to be sent to Board ● Coordinates with PDP Working Group chairs on questions or clarifications from ICANN org and/or the Design Feedback Group ● Determines steps to take if policy issues are referred to it
Design Feedback Group	● Considers Operational Design Assessment ● Identifies any inconsistencies with policy recommendations ● Engages with stakeholder community to develop and provide feedback to Operational Design Assessment
Supporting Organizations & Advisory Committees	● Identify representatives for Design Feedback Group ● Consult on and coordinate any feedback to be provided via Design Feedback Group

Entity	Relevant Roles & Responsibilities
ICANN org	- Manages gathering of information, estimates, modeling to produce Operational Design Assessment for feedback - Consults with experts or conducts RFIs to assist with cost estimates - Delivers in a timely manner the responses to questions posed by the Board
ICANN President & CEO	- Appoints relevant individual to lead operational design work - Accountable for delivery of relevant information to Board
Board of Directors	- Directs President & CEO to commence Operational Design Phase - Specifies questions or information it requests to be provided via the Operational Design Phase - Appoints liaison to Design Feedback Group - Considers and determines whether proposed policy recommendations are in the best interests of the ICANN community or ICANN. (Annex A)