

Summary overview of Deliverable I – Review Chart

10 July 2014

DRAFT LESSONS LEARNED TO DATE (to be further completed)

A GNSO Policy Guidance process would need at a minimum:

1. Clear guidance on what happens with outcome of the effort
2. Clear process on how results are to be adopted by the GNSO Council and how these are communicated
3. If another entity (e.g. WG, DT) is tasked by the GNSO Council to develop Policy Guidance, clear guidance needs to be provided by the GNSO Council on how recommendations are to be adopted if different from the standard methodology for making decisions as outlined in the GNSO Working Group Guidelines
4. To be inclusive / representative
5. To set ground rules on how to participate, but acknowledge that there may be 'one issue' participants and encourage their participation while at the same time minimizing repetition of the same issues so that the process proceeds effectively
6. To explore alternative / additional ways to obtain input at an early stage, for example, involvement of expert groups
7. To be as lightweight as possible to be an alternative to a PDP
8. To ensure that potential topic lead(s) are well versed on topic and procedures
9. To ensure broad input at an early stage
10. To be communicated clearly to other SO/ACs as well as the ICANN Board
11. Allow for feedback and revision as guidance is developed, if needed
12. Be as specific as possible in its recommendations
13. To be conducted in an expedited manner, if warranted

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Summary Review of Previous GNSO Efforts

Title of Initiative (date)	Implementation Review Team (March 2009)
Brief Summary	The Implementation Recommendation Team (IRT) was formed by ICANN's Intellectual Property Constituency following a request by the ICANN Board. The initiative was intended to facilitate solutions for challenges faced by trademark holders in the implementation of new gTLDs, which had been identified as an Overarching Issue in the New gTLD Program. The IRT produced an Initial Report and Final Report which was submitted to the ICANN Board.
Strong Points	<ul style="list-style-type: none"> • Sought input for possible solutions from biggest critics of the expansion • It had real experts - not a lot of time needed to be spent on preparation / education
Weak Points	<ul style="list-style-type: none"> • Not inclusive/representative - which resulted in criticism • Baby thrown out with the bathwater - certain proposals created so much resistance, that some of the others were ignored as a result • Attempt to reopen some of the issues/topics that were addressed or achieved consensus as part of a PDP • IRT claimed that it had made compromises, but that wasn't the perception of the community (and there was no one on the IRT to 'defend') • It was viewed as policy implementation (of the GNSO policy recommendations) by some, but others perceived it has changing agreed-to policy. Policy recommendations had left recommendations vague which made it very complicated. • Way in which it was constituted was different from other initiatives which may have also contributed to 'resistance' • No clear guidance on what the Board was going to do with the recommendations of the IRT
Lessons Learned	<p>Need clear guidance on what happens with outcome of the effort</p> <p>Needs to be inclusive / representative</p>

Title of Initiative (date)	Special Trademark Issues (STI) Review Team (October 2009)
Brief Summary	On 12 October 2009, the ICANN Board sent a letter to the GNSO requesting its review of the policy implications of certain trademark protection mechanisms proposed for the New gTLD Program, as included in the Draft Applicant Guidebook at the time and accompanying memoranda. Specifically, the Board Letter requested that the GNSO provide input on whether it approves the proposed staff model, or, in the alternative, propose an alternative that is equivalent or more effective and implementable. The STI produced a Final Report, which was adopted by the GNSO Council and subsequently submitted to the ICANN Board.
Strong Points	<ul style="list-style-type: none"> • The threat of the default implementation forced parties to truly negotiate in good faith. Compromises were hammered out. • Looking to the GNSO to propose solutions to identified problems • More inclusive than the IRT • Excellent cross-community cooperation
Weak Points	<ul style="list-style-type: none"> • Some of the compromises were later disavowed, resulting in significant problems, and in fact directly leading to the P&I discussions and WG. • Haggling over how many representatives each group could have • Balance of group – mainly GNSO participants, not open to everyone interested like typical GNSO efforts • Not clear how different initiatives were linked / related • Some of the arguments difficult to understand from an outside perspective - as everything appears up for negotiation, without making too much sense in isolation • Changes in approach as a result of changes in ICANN executive management
Lessons Learned	
Title of Initiative (date)	Formation & work of RC-IOC DT (August 2011)
Brief Summary	The ICANN Board had requested policy advice from the GNSO Council and the GAC on whether special protections should be afforded to the RCRC and IOC. In October 2011, the GNSO Council decided to create a small drafting team to develop a response to the GAC. The resulting IOC/RCRC Drafting Team crafted a set of recommendations for protecting the IOC/RCRC names at the top level that were adopted by the GNSO Council, though ultimately not by the Board.

Strong Points	<ul style="list-style-type: none"> • Thorough vetting of the issues. • Open to anyone interested to participate • Request for input went to GNSO Council • Desire to respond to the GAC input on the issue with a possible view to cooperate / compromise (even if that didn't happen in practice) • Instead of overly broad request, it was tightly scoped which facilitated the discussion and also changed the position some groups had taken as part of the PDP
Weak Points	<ul style="list-style-type: none"> • It took longer than anticipated, maybe unavoidably. • No clear indication what the Board was going to do with the output from the GNSO - but Board did say it was looking for input • Issue was considered as part of an earlier PDP and at that point discarded – this felt like circumventing the previous process during which it was decided that no special protections were needed • Number of people involved that were 'single-issue' participants - not there to represent stakeholders but only one particular stakeholder - but some argued that as long as their interest is clear it shouldn't be an issue, but there should also be a willingness to compromise and listen to others
Lessons Learned	<p>Need to set ground rules on how to participate, but acknowledge that there may be 'one issue' participants</p> <p>Need clear guidance on what happens with outcome of the effort</p>
Title of Initiative (date)	GNSO Council responses to Board requests concerning IGO protections (March 2012)
Brief Summary	<p>December 2011 letter from a group of IGOs to ICANN Board expressing concerns of the IGO community regarding the registration and use of IGO names in the DNS. The ICANN Board then wrote to the GAC and GNSO in March 2012: 'In light of the GAC's role under the ICANN bylaws to provide advice to the Board "on matters where there may be an interaction between ICANN's policies and various laws and international agreements," and because of the relationship between the IGOs' request and the work ongoing regarding the Red Cross/IOC, as well as the past GNSO work regarding the Reserved Name List, the ICANN Board formally requests that the GAC and GNSO provide policy advice to ICANN regarding the IGOs' request. Policy advice on the expansion of protections will inform ICANN in providing a meaningful response to the IGOs'. The GNSO Council collaborated on a response and sent a response letter back to the ICANN Board.</p>

Strong Points	<ul style="list-style-type: none"> • Broad participation & thorough vetting of the issues. • Better understanding by some parties of how GNSO process works • Expert involvement / advice on status of international law
Weak Points	<ul style="list-style-type: none"> • No GAC direct participation • Perception that some parties went in noting that 'they had won' and 'stop trying to change that' (believing that there was prior assurance from other parties which made discussions very difficult and not in line with reality) or view that everyone else just didn't understand international law • Limited INGO participation except for the RCRC, IOC and ISO/ the consideration of INGOs was added to the discussion after the work started • Some members not looking at broader issue but only there to defend their own specific viewpoint / interest ('one issue' participants) and did not contribute to other items / work as a result • Disconnect between work of the GAC, GNSO and Board • Procedural confusion - what is the effect of the work? • Multiple answers to complex issues that could not co-exist - how to decide who is right or wrong?
Lessons Learned	<p>Need to set ground rules on how to participate, but acknowledge that there may be 'one issue' participants</p> <p>Need to explore alternative / additional ways to obtain input at an early stage, for example, involvement of expert groups</p>
Title of Initiative (date)	GNSO feedback on Whois Review Team Final Report (June 2012)
Brief Summary	Request from the ICANN Board to provide input on the Whois Review Team Final Report ('the Board encourages public input on the Final Report and Recommendations, and requests that the ASO, ccNSO, GNSO, ALAC, GAC, and SSAC provide input to the Board by 31 August 2012'). The GNSO Council collaborated on a response and sent a response letter back to the ICANN Board.
Strong Points	<ul style="list-style-type: none"> • Board sought input before taking any action
Weak Points	<ul style="list-style-type: none"> • Ad-hoc process that didn't work very well
Lessons Learned	<p>Ad-hoc process may need more iterations to be effective</p> <p>Pen-holders should ideally be well versed on topic and procedures, and not done by one person especially if it is a controversial topic. Or get input at an early stage.</p> <p>Need to consider lightweight adhoc policy process</p>

Title of Initiative (date)	Development of TMCH "strawman" proposal (November 2012)
Brief Summary	Following discussions at the Toronto meeting in October 2012, ICANN met with a group of stakeholder representatives to complete implementation discussions on the TMCH and associated RPMs, including discussion of a proposal by the IPC and BC. The discussions resulted in a proposed "strawman" solution that was intended to balance and address the concerns of affected stakeholders.
Strong Points	<ul style="list-style-type: none"> • Arguably the first instance of P/I development led by a facilitator (Fadi Chehade). • Bold attempt to bring differing view points together to find solutions to nagging issues. Attempt to be less rigid in problem-solving structures
Weak Points	<ul style="list-style-type: none"> • Composition of the group not balanced and although remote participation was required, as it was planned on short notice without any travel support, it was poorly implemented. • Purpose and intent was not initially well-communicated to community. • Imposed rather than organic way of approaching issue • Perception by some that this was an attempt to open a closed item which may have come from the ad-hoc nature
Lessons Learned	Top down without community buy-in creates limitations
Title of Initiative (date)	Correspondence on TMCH "strawman" proposal (December 2012)
Brief Summary	The ICANN CEO sought policy guidance from the GNSO Council on two items as part of the next steps for the implementation of the TMCH, namely, the Strawman Proposal and the IPC/BC proposal for limited defensive registrations.
Strong Points	<ul style="list-style-type: none"> • Provided requested feedback to Board.
Weak Points	<ul style="list-style-type: none"> • Timeline is always an issue when implementation details are being debated. • Process for adoption was not clear at the outset - not clear how minority view was to be reflected. • Not clear what would be done with the input received at the outset. • Some groups felt input from GNSO Council was not respected and ignored. • Does a letter constitute GNSO Council "Policy Guidance" if two constituencies disagree, especially if it is developed through an ad-hoc process?
Lessons Learned	Need for clear process at the outset, including how end product is adopted by GNSO Council.
Title of Initiative (date)	Response to Board request on "closed generics" (February 2013)
Brief Summary	At its 2 February 2013 meeting, the ICANN Board's New gTLD Program Committee adopted a resolution requesting the GNSO

	to provide guidance on the issue of "closed generic" TLDs if the GNSO wishes to provide such guidance. The Committee also requested that any such guidance be provided by 7 March 2013, coincident with the close of the public comment forum on this issue.
Strong Points	<ul style="list-style-type: none"> • Provided response to Board. Outlined alternative method for seeking input.
Weak Points	<ul style="list-style-type: none"> • Timeline hinders GNSO input. • Board didn't understand/respect the bottom-up multistakeholder model if it asks for a response in 30 days.
Lessons Learned	Education requirement with how the GNSO works to include the Board as well as the community Managing expectations

Title of Initiative (date)	Correspondence on String Similarity (September 2013)
Brief Summary	During the GNSO Council meeting on 5 September 2013, the Council discussed issues associated with the string confusion decisions that had been made recently (e.g. relating to plural and singular versions of the same term and seemingly conflicting decisions on identical strings). As ICANN GDD president Akram Atallah had intimated in an interview that if there were conflicting decisions, it would be for the GNSO community to assist, the GNSO Council received an update on the issue that included references to previous relevant GNSO advice, and discussed potential future activity to be initiated by the Council.
Strong Points	<ul style="list-style-type: none"> • Counsel self-identified issue & took proactive action
Weak Points	<ul style="list-style-type: none"> • No clear plan for resolution.
Lessons Learned	Need to be specific in policy recommendations

Title of Initiative (date)	GNSO Council comments on ATRT2 (December 2013)
Brief Summary	A public comment forum was opened for the ATRT2 to obtain community input on its Draft Report & Recommendations and Correction Issued 7 November 2013, with the goal of producing a Final Report by 31 December 2013
Strong Points	<ul style="list-style-type: none"> • Good timeline management • Shows maturity of organization to be able to respond
Weak Points	
Lessons Learned	Cooperative, iterative process worked very well

Title of Initiative (date)	Board request concerning .brand RA, specification 13 (December 2013)
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Brief Summary	Request from the NGPC: Implementation of an additional clause was being delayed for a time in respect of the GNSO policy development process by providing the GNSO Council an opportunity to advise ICANN as to whether the GNSO Council believes that this additional clause is inconsistent with the letter and intent of GNSO Policy Recommendation 19 on the Introduction of New Generic Top-Level Domains. In case additional time for review is necessary beyond the 45 days, the NGPC should be advised along with an explanation as to why this additional time is required.
Strong Points	<ul style="list-style-type: none"> • Comments were also invited on whether this was a policy issue and needed further consideration
Weak Points	<ul style="list-style-type: none"> • Unease over the process • Not clear who / why it was decided to put it out for public comment - didn't consider it would need to go via a PDP (did it circumvent the process?) • No checkpoint initially whether it affected policy, only after it was posted for public comment • Process discouraged real debate as any questions over process would have been interpreted as going against BRG/Spec 13
Lessons Learned	Need for possibility to conduct process in an expedited manner, if circumstances warrant