



REVIEW OF GENERIC NAMES

SUPPORTING ORGANIZATION

Draft Report for GNSO Review Working Party

Westlake Governance Limited

April 2015

SECTION 1: REPORT SUMMARY

1.1 Background

This review was initiated in 2014 by ICANN with the assistance of a working party comprised of GNSO community members in accordance with ICANN's bylaws. It follows a series of other reviews, some of the GNSO explicitly and others of ICANN's policy-making structures in general, including a programme of improvement of the GNSO initiated by the ICANN Board after the Board Governance Committee (BGC) considered the recommendations of previous reviews in 2008.

Following more recent changes, the [Structural Improvements Committee](#) (SIC) of the ICANN Board is now responsible for review and oversight of policies relating to ICANN's ongoing organizational review process, as mandated by ICANN's Bylaws. In relation to this review, the SIC:

- Confirmed the appointment of Westlake Governance as Independent Examiner,
- Will accept the final report and the implementation plan, and
- Will prepare recommendations for Board action.

The scope of this review is two-fold: to assess the extent to which the improvement programme has been implemented and successful at addressing the concerns that led to it, and to consider the extent to which the GNSO as currently constituted is in a position to respond to its changing environment. The Westlake Review Team has not been asked to assess various options and alternatives pertaining to the structure of the GNSO, but inquiry into the effectiveness of GNSO operations naturally leads to structural considerations. We note also that the existing GNSO structure of two Houses and four Stakeholder Groups (SGs) allows for considerable flexibility.

Input to the review has comprised:

- An online questionnaire (the 360) about the GNSO as a whole and its component parts
- A similar questionnaire about specific Working Groups
- Reviewing material about previous reviews, plans and other information, most of which was available on the ICANN website
- Interviews with a range of stakeholders from the GNSO and wider ICANN community
- Feedback on an earlier working text presented in summary at ICANN52 and provided to the GNSO Review Working Party for comment.

1.1.1 BGC Recommendations to the ICANN Board

In its 2008 synthesis of prior reviews, the Board Governance Committee Working Group (BGC WG) made recommendations in the following areas and the Board adopted these recommendations. (We refer to these throughout our report as ‘BGC recommendations’. It should be noted that, while referred to as ‘recommendations,’ they were approved):

- Adopting a Working Group model for policy development
- Revising the policy development process (the PDP)
- Restructuring the GNSO Council
- Enhancing and supporting stakeholder groups and constituencies
- Improving communications and coordination with other ICANN structures

The Review Team has assessed the extent to which the recommendations adopted by the Board have been implemented. The BGC recommendations are listed below in highly summarised form and numbered as BGC1 – BGC18, together with our view on whether they have been implemented, and our recommendations for further work.

1.2 Assessment and Recommendations: The Working Group Model

Westlake’s view of the implementation of the BGC recommendations is:

BGC Recommendation	Implemented?
BGC1: Working Groups (WGs) should become the foundation for consensus policy work in the GNSO. WGs should be open to everybody.	Yes
BGC2: Council and Staff should develop operating principles for WGs	Yes
BGC3: ICANN should provide staff support to WGs	Yes

Westlake’s view is that these have all been implemented effectively. WGs do exist and they do create policy. In the 360 survey, almost 80% agreed that WGs are effective and that they listen to feedback. Comments about staff support were uniformly positive.

However, there are some negative outcomes in the implementation of WGs:

- Comparatively few volunteers do most of the work
- Volunteers are strongly weighted toward North America and Europe

- Participants are approximately 80% male

These points imply that the WGs are not effectively open to everyone, but more importantly they show that ICANN is not getting a cross-section of Internet stakeholders involved in policy-making.

Our recommendations are:

- ❖ **Recommendation 1:** Develop and monitor metrics to evaluate the ongoing effectiveness of current outreach strategies and pilot programmes with regard to GNSO WGs (as noted in the WG participation recommendations under section 5.4.5)
- ❖ **Recommendation 2:** Develop and fund more targeted programmes to recruit volunteers and broaden participation in PDP WGs, given the vital role volunteers play in Working Groups and policy development.
- ❖ **Recommendation 3:** Review the level, scope and targeting of financial assistance to ensure volunteers are able to participate on a footing comparable with those who participate in GNSO as part of their profession.
- ❖ **Recommendation 4:** Explore a tailored incentive system to increase the motivation of volunteers. (For example, this may include training & development opportunities or greater recognition of individuals).
- ❖ **Recommendation 5:** Continue initiatives that aim to reduce the barriers to newcomers.
- ❖ **Recommendation 6:** That the GNSO record and regularly publish statistics on WG participation (including diversity statistics).
- ❖ **Recommendation 7:** That SGs and Cs explore and implement ways to engage more deeply with community members whose first language is other than English, as a means to overcoming language barriers.
- ❖ **Recommendation 8:** That WGs should have an explicit role in responding to implementation issues related to policy they have developed, and that the current Policy and Implementation Working Group specifically address the role of WGs in responding to policy implementation issues.

1.3 Assessment and Recommendations: The PDP

Westlake's view of the implementation of the BGC recommendations is:

BGC Recommendation	Implemented?
BGC4: Revise the rules for the PDP to align with contractual requirements	Yes
BGC5: Implement PDP self-assessment	Incomplete
BGC6: Align PDPs with ICANN's strategic plan	No

The WG PDP is seen as successful if long-winded. About half the 360 respondents agreed that policy recommendations are timely. There were comments about the frustratingly (to some) long time that a PDP can take, and many to the effect that the duration of the PDP may be necessary to achieve consensus.

A Data and Metrics Working Group has been set up as a non-PDP WG to consider how to assess the PDP process itself. However, this does not cover the outcome of the policy, which in our view is essential to inform future policy development.

There is no evidence of a GNSO-wide plan that would serve to prioritise PDPs in the context of ICANN's own strategic plan.

Our recommendations are:

- ❖ **Recommendation 9:** That a formal WG leadership assessment programme be developed as part of the overall training and development programme.
- ❖ **Recommendation 10:** That a professional facilitator/moderator is used in certain situations (for example, when policy issues are complex, where members of the WG are generally inexperienced and/or where WG members have interests that conflict), and that the GNSO develop guidelines for the circumstances in which professional facilitators/moderators are used for Working Groups.
- ❖ **Recommendation 11:** That the face-to-face PDP WG pilot project be assessed when completed. If the results are beneficial, guidelines should be developed and support funding made available.
- ❖ **Recommendation 12:** That ICANN assess the feasibility of providing a real-time transcribing service in audio conferences for prioritised PDP WGs.

- ❖ **Recommendation 13:** That ICANN evaluate one or more alternative decision support systems and experiment with these for supporting WGs.
- ❖ **Recommendation 14:** That the GNSO further explores PDP ‘chunking’ and examines each potential PDP as to its feasibility for breaking into discrete stages.
- ❖ **Recommendation 15:** That the GNSO continues current PDP Improvements Project initiatives to address timeliness of the PDP.
- ❖ **Recommendation 16:** That a policy impact assessment (PIA) be included as a standard part of any policy process.
- ❖ **Recommendation 17:** That the practice of Working Group self-evaluation becomes standard at the completion of the WG’s work; and that these evaluations should be published and used as a basis for continual improvement in the PDP.
- ❖ **Recommendation 18:** That the WG self-evaluations are used to monitor and improve process effectiveness over time.
- ❖ **Recommendation 19:** That the GNSO Council evaluate post implementation policy effectiveness on an ongoing basis (rather than periodically as stated in the current GNSO Operating Procedures).
- ❖ **Recommendation 20:** That the post implementation policy effectiveness evaluations are analysed by the GNSO Council to monitor and improve the drafting and scope of future PDP Charters and facilitate the effectiveness of GNSO policy outcomes over time.
- ❖ **Recommendation 21:** The GNSO Council be tasked with creating and maintaining a plan for policy creation that aligns with ICANN’s strategic plan.

1.4 Assessment and Recommendations: Restructuring GNSO Council

Westlake’s view of the implementation of the BGC recommendations is:

BGC Recommendation	Implemented?
BGC7: Council to do strategy and oversight	Yes
BGC8: Council to assess and analyse trends	No
BGC9: Council to improve project and document management	Partial
BGC10: Council membership restructure	Yes

BGC11: Council term limits	Yes
BGC12: Council and GNSO-wide SOIs	Yes
BGC13: Councillor training	Needs improvement

The Council is performing a strategy and oversight role as recommended by the BGC. It publishes a list of projects but there is no evidence of resource planning or management. Term limits and SOIs have been implemented.

Councillor training was highlighted in comments on the 360 survey, in respect of technical expertise, project management and governance. There is no means to measure the level of competence and skills of incumbents, or the effectiveness of the training undertaken.

Our recommendations are:

- ❖ **Recommendation 22:** As strategic manager rather than a policy body the GNSO Council should continue to focus on ensuring that a WG has been properly constituted and has followed due process.
- ❖ **Recommendation 23:** That the GNSO Council should review annually ICANN's Strategic Objectives with a view to prioritizing future policy development. This exercise should seek a balance between ICANN's Strategic Objectives and the GNSO resources available.
- ❖ **Recommendation 24:** The GNSO Council should regularly undertake or commission analysis of trends in gTLDs in order to forecast their likely requirements for policy and to ensure those affected are well-represented in the policy-making process.
- ❖ **Recommendation 25:** That the GNSO should review and implement a revised training and development programme encompassing:
 - Skills and competencies for each Council member
 - Training and development needs identified
 - Training and development relevant to each Council member
 - Formal assessment system with objective measures
 - Continual assessment and review.

1.5 Assessment and Recommendations: Enhancing Stakeholder Groups and Constituencies

For the purposes of this subsection, the term “constituency” is taken to include the RrSG and the RySG, which do not have constituencies under them.

The Westlake Review Team’s view of the implementation of the BGC recommendations is:

BGC Recommendation	Implemented?
BGC14: Clarify and promote the option to form new constituencies	Yes but ineffective
BGC15: Constituency operating rules and participation	No
BGC16: Provide dedicated staff support to constituencies	Partial

Action was taken as a result of the BGC recommendation about the formation of new Constituencies, but this has not been effective. Only one new Constituency has been formed, with a great deal of difficulty, and several other groups have tried and failed to create new Constituencies.

Constituency operating rules exist, but attempts to broaden participation have been ineffective.

ICANN Core Value 4 reads Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making. The constituency structure is intended to provide functional diversity. ICANN’s regional structure provides a way of measuring geographic diversity, but it is not a proxy for cultural diversity, which is not defined by ICANN.

ICANN does not collect the information necessary to measure diversity of participation. Observation, and collecting such information as is available, shows that participation is highly male-dominated and very strongly North American- and European-dominated. There are very few participants from Asia (other than Australia and New Zealand) despite that continent representing a very large and increasing proportion of Internet users. Barriers that are perceived to exist, which constrain participation by under-represented groups, include the exclusive use of English by WGs, being consistently outvoted over time-zones for calls and a predominantly Western-style assertive mode of interpersonal interaction in meetings.

Secretariat support where provided by ICANN is rated to be of high quality, but it is not provided to all constituencies.

Our recommendations are:

- ❖ **Recommendation 26:** That the ICANN Board, GNSO Council and SGs and Cs adhere to the published process for applications for new constituencies. Subject to the application meeting the conditions, the default outcome should be that a new Constituency is admitted.
- ❖ **Recommendation 27:** That all applications for new constituencies, including historic applications, be published on the ICANN website with full transparency of decision-making.
- ❖ **Recommendation 28:** That the GNSO Council commission the development of, and implement, guidelines to provide assistance for groups wishing to establish a new Constituency.
- ❖ **Recommendation 29:** That, where an individual's participation would require an SOI to be completed, if members represent bodies or clients, this information is to be posted. If not posted because of client confidentiality, the participant's interest or position must be disclosed. Failing either of these, the individual not be permitted to participate.
- ❖ **Recommendation 30:** That the GNSO establish and maintain a centralised publicly available list of members of every Constituency and Stakeholder Group, linked to the individual's SOI where posted.
- ❖ **Recommendation 31:** That section 6.1.2 of the GNSO Operating Procedures be revised to clarify that key clauses are mandatory rather than advisory, and to institute meaningful sanctions for non-compliance where appropriate. (A draft is included in Appendix 6.)
- ❖ **Recommendation 32:** That new members of WGs and newcomers at ICANN meetings be surveyed to determine how well their input is solicited and accepted by the community, and that the results be published and considered by the GNSO Council at its next meeting.
- ❖ **Recommendation 33:** That the GNSO develop and implement a policy for the provision of administrative support for SGs and Cs.
- ❖ **Recommendation 34:** That SGs and Cs annually review and evaluate the effectiveness of administrative support they receive.

1.6 Assessment and Recommendations: Communications and Coordination

Westlake's view of the implementation of the BGC recommendations is:

BGC Recommendation	Implemented?
BGC17: Improved Communication with ICANN Board	Yes
BGC18: Improved Communication and Coordination with other ICANN structures	In Progress

The BGC WP recommended that the GNSO Council should improve the level of its communication with its nominee members of the ICANN Board. We received no comment on this from any respondent and have therefore concluded that it is no longer a matter of concern.

In relation to other ICANN structures, several respondents expressed frustration with the relationship between PDP WGs generally and the Governmental Advisory Committee (GAC). The concern was that the GAC appeared not to participate in the full PDP, but was reported to intervene at a very late stage, sometimes disrupting a process that was near to consensus, or even lobbying Board members to make late changes to a finalized new policy. This appeared to compromise the agreed bottom-up consensus-driven approach to developing policy. Against this, we were advised of the difficulty that the GAC faces in that no member can express a binding view on behalf of the others.

To address this we have recommended closer liaison between the GNSO and GAC and that the GAC appoint a non-voting liaison to each relevant PDP WG. In this way, informal GAC input can occur through the PDP, without it being seen as binding commitment on behalf of the GAC members.

Our recommendation is:

- ❖ **Recommendation 35:** That the GAC-GNSO Consultation Group on GAC Early Engagement in the GNSO Policy Development Process continue its two work streams as priority projects. As a part of its work it should consider how the GAC could appoint a non-binding, non-voting liaison to the WG of each relevant GNSO PDP as a means of providing timely input.

1.7 Assessment and Recommendations: Changing Environment

Besides assessing the effectiveness of previous review recommendations, we have considered the changing environment as it affects the GNSO, for instance:

- Demographic structure of the Internet
- Diversity
- IDNs
- gTLD expansion

The Westlake Review Team has assessed the extent to which the GNSO displays the agility to respond to these challenges and new developments.

Among the changes in the GNSO's broader environment, probably the most significant in the last decade is the dramatic shift in the "centre of gravity" of Internet usage – from mainly Anglophone and generally richer economies to non-Anglophone Asian, African and Latin American nations.

The GNSO remains dominated by participants from largely Anglophone, developed nations. The make-up of the current GNSO Council does not demonstrate a focus by SGs or Cs on achieving geographic, gender or cultural diversity. As a result the issues they consider tend to be those of interest to developed wealthy economies.

Because of the imbalance in the GNSO's composition, it was seen by some to be poorly equipped to identify and develop policies or consider issues relating to gTLDs that are of significance to less developed economies. Several obstacles exist that create barriers to participation for a large percentage of Internet users:

- People whose first language is not English, and those from developing regions, find it difficult to engage with the GNSO.
- Richer economies are better able to support a volunteer structure: experienced participants are overwhelmingly North American, Western European or Australian/New Zealanders.
- Complexity deters newcomers.
- "Unconscious biases" that may exacerbate these factors include matters such as language, colloquial usage, use of acronyms and time of day for WG calls. (Recent studies of obstacles to achieving diversity in companies have highlighted the importance of these "unconscious

biases” that inhibit changes without people being generally aware that they are having this impact.)

In order to ensure its continuing relevance and ability to identify the policy issues that matter, we consider that the GNSO must address these barriers to participation from developing and non-Anglophone regions. It must ensure that the demographic make-up of the GNSO Council and the GNSO community reflects the demographics of Internet users worldwide far more closely than it does at present.

Many people commented on the GNSO’s structure and complexity and argued that these needed to change. We do not consider that the GNSO’s structure is perfect, or that it cannot be improved, but, having analysed the issues in some detail, our view is that the structure of the GNSO is not the main cause of its most pressing challenges.

In addition, the current structure of the GNSO has been in place for only about three years. From the Westlake Review Team’s professional experience of structural change in many organisations of differing types, this represents only a relatively short time for it to become firmly established and for people to be fully familiar with it.

Our recommendations are:

- ❖ **Recommendation 36:** That ICANN define “cultural diversity” and that relevant metrics (encompassing geographic, gender, age group and cultural, possibly by using birth language) be monitored and published.
- ❖ **Recommendation 37:** That SGs, Cs and the Board’s Nominating Committee, in selecting their candidates for appointment to the GNSO Council, should aim to increase the geographic, gender and cultural diversity of its participants, as defined in ICANN Core Value 4.
- ❖ **Recommendation 38:** That PDP WGs rotate the start time of their meetings in order not to disadvantage people who wish to participate from anywhere in the world. This should be the norm for PDP WG meetings even if at first all the WG’s members come from the “traditional” regions of North America and Europe.
- ❖ **Recommendation 39:** That the GNSO Council establish a WG, whose membership specifically reflects the demographic, culture and gender diversity of the Internet as a whole, to identify and develop ways to reduce barriers to participation in the GNSO by non-English speakers and those with limited command of English.

- ❖ **Recommendation 40:** That, when approving the formation of a PDP WG, the GNSO Council require that its membership represent as far as reasonably practicable the geographic, cultural and gender diversity of the Internet as a whole.
- ❖ **Recommendation 41:** That, when approving GNSO Policy, the ICANN Board be satisfied that the membership of the WG adequately reflects the geographic, cultural and gender diversity of the Internet as a whole.

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