14 February 2017

Dear Members of the ICANN Board,

On 15 December 2016, the Contracted Party House (CPH) wrote to Göran Marby and the ICANN Board detailing a number perceived shortcomings of our engagement with Global Domains Division (GDD) Staff over an extended period of time. This letter also contained recommendations that we believed would improve the overall framework for our engagement between the CPH and GDD staff. This communication largely captured the exchange the CPH had with the ICANN Board in Hyderabad.

The CPH had expressly requested that the letter not be published to provide an opportunity for some thoughtful dialog between our members and ICANN staff. However, we have become aware that the letter has been referenced in the Staff Accountability track of the Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability) discussions and we believe there is benefit in making some of the information contained in the original letter public. To that end we have developed a summary of the principles and recommendations made in our original letter, attached at Annex A, with the intent that these be posted to the ICANN correspondence page and made available to the CCWG-Accountability—Staff Accountability track discussions. We are working through our members to ensure that both the concerns and suggestions raised therein are accounted for within that process.

We look forward to receiving a response to our original letter and working together to support Mr Marby's stated vision of ICANN as a facilitator and partner, as well as the mandate of operational excellence and high level service upon which the GDD was formed.

Best regards,

Paul Diaz   Graeme Bunton
Chair, gTLD Registries Stakeholder Group (RySG)   Chair, Registrar Stakeholder Group (RrSG)

Principle 1: Realize the vision of GDD staff as a facilitator

- *Recommendation 1:* The Board's language in approving PDP recommendations, wherein the "Board directs staff to implement" a particular policy, may require review and adjustment by which the Board instead directs staff to facilitate the implementation of a certain policy.

- *Comment:* Members of the CPH believe there have been repeated instances of staff directing the policy implementation process without taking into account the views of the members of the Implementation Review Teams (IRT). We believe part of this problem could be attributed to the Board direction to staff to implement policy. Changing the language would have a positive impact on the IRTs.

Principle 2: Ensure that facilitation and mediation skills are available, where needed

- *Recommendation 2:* We encourage further work to explore whether facilitation and mediation skills should be considered more centrally in GDD hiring, whether ICANN should provide GDD staff with facilitation and mediation skill training, and whether third party mediation or facilitation may sometimes be appropriate.

- *Comment:* A number of GDD staff are involved in iImplementing consensus policies and in order to do that successfully they should have the requisite skills to enable them to facilitate, and at times mediate, these efforts.

Principle 3: Refocus on the recommendations of the Policy and Implementation Working Group

- *Recommendation 3:* We request a discrete session with the Board and executive staff during the ICANN 58 Public Meeting to review the recommendations, discuss what implementation steps have occurred, and foster discussion on whether further work on the recommendations is appropriate.

- *Comment:* We believe that this is central to developing a productive and collaborative relationship with GDD staff tasked with leading implementation efforts and understanding the differences between policy and implementation.

Principle 4: Prioritize minimalism and flexibility in policy implementation

- *Recommendation 4:* If a particular PDP recommendation may be interpreted in multiple ways, ICANN should choose the interpretation most consistent with existing consensus policy, operational practice, or both, to minimize the associated implementation burdens. For avoidance of doubt, GDD staff should refer difficult implementation questions back to the PDP WG or the GNSO Council for guidance.

- *Recommendation 5:* At times, a minimalist approach may also require flexibility, specifically permitting multiple implementations of a single policy. ICANN must accept that it is reasonable and valid that a particular policy might have several implementations, all of which are reasonable interpretations.

- *Comment:* We believe that all too often GDD staff go into IRTs with a pre-determined outcome in mind absent a good understanding of the discussions that lead to the consensus policy. There also appears to be an inability to change course despite constant feedback to the contrary that their position is not what was intended. A concrete example where this occurred was during the implementation of the Registry Data Access Protocol, which ultimately resulted in the RySG

submitting a [Reconsideration Request](#) because our repeated concerns were dismissed by GDD staff and we believed there was no other course of action available to correct the situation. It was only after submitting the Reconsideration Request that the RySG was able to get any real traction with GDD staff.

Principle 5: Build strawmen, not ironmen

- *Recommendation 6:* GDD staff should treat its proposed implementation frameworks as true strawmen that are open to feedback and change, and also recognize the distinction between voluntary frameworks and requirements on contracted parties.
- *Comment:* This distinction has been largely misunderstood by staff, and is often a sticking point between GDD staff and members of the CPH, in the ongoing development of the Security Framework and the Advisory regarding Specification 11 3(b).

Principle 6: Allow the community to triage or prioritize major work streams

- *Recommendation 7:* If staff's role is truly that of a facilitator, then these prioritization decisions should result from community dialogue.

Principle 7: Defend the primacy of the PDP and the existing limitations on contract scope

- *Recommendation 8:* We applaud recent statements by senior ICANN staff and Board members that recognize the limits on registries and registrars' responsibility for issues related to domain name usage and urge staff to continue to defend against additional scope creep.
- *Comment:* It has been evident from some efforts that GDD staff are trying to appease many stakeholders; however, it is always important to understand that contracted parties are only bound by consensus policy and their respective agreements—not by the wishes of others.

Principle 8: Strengthen community feedback processes and relay community feedback to ensure shared understanding

- *Recommendation 9:* The Board places considerable emphasis on public comments during the Public Forums and otherwise. The processes for developing the reports must be robust so that the public comment process does not become a box-checking exercise. If GDD staff does not believe the current timeline provided offers sufficient time for meaningful review and analysis, we propose re-evaluating the timelines.
- *Comment:* The public comment reports do not provide an analysis of the comments received, nor do they provide any indication of how staff intends to treat the comments. In order for the public comment forums to be more than just a tick-the-box exercise, there needs to be a meaningful review and analysis provided in the public comment report. As the public comments are generally used by staff to make cases for or against in recommendations to the Board on a path forward, staff's analysis must be more transparent.