

## **Summary of GNSO Council Teleconference – September 1, 2016 at UTC 12:00**

Please use the links below to view the agenda and motion details relevant to this summary.

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### **1. Item on the Consent Agenda: Confirmation of extension of the GAC-GNSO Liaison's term**

The current GAC-GNSO Liaison's term was extended until the end of the AGM in Hyderabad. The timeline for applicants for the liaison role, as well as the selection process has also been extended. The new deadline to for candidate nominations is October 1.

This is a second round for candidate nominations, as only one candidate was nominated by the Intellectual Property Constituency (IPC) during the first round. The GNSO Council did not consider the experience/skill set of this candidate to match the desired qualifications of the Liaison. The Council leadership team is expected to submit a motion appointing the selected candidate by October 28, to be voted on during the Council meeting in Hyderabad on November 7.

### **2. COUNCIL VOTE – Approval of Recommendations from the Standing Committee on GNSO Improvements**

The GNSO Council voted unanimously in favor of the motion to adopt the recommendations made by the SCI regarding amendments to the GNSO Operating Procedures on the process and timeline for GNSO Council Chair/V. Chair elections and the submission of motions/amendments to motions.

An amendment to the third resolved clause of the motion was suggested, and accepted by the maker and seconder of the motion. The change was to drop the last sentence: "The SCI is hereby disbanded" with ". Note that the GNSO Council decision to disband the SCI was not overturned. This decision was made via a motion on the Council's July 16 meeting. The decision was to disband the SCI following its completion of the two projects. These two projects were completed with the adoption of this motion.

The GNSO Council Liaison to the SCI (Amr Elsadr) also briefed the Council on some concerns raised by the IPC and Business Constituency (BC) regarding disbanding the SCI. The standing agreement was that ongoing improvements of GNSO operating procedures would need to be discussed again in the future. For the time being, the GNSO Review WG will assume the role of the

SCI as well as carry out its primary mandate; assist in developing an implementation plan for the GNSO Review recommendations adopted by the ICANN Board. Once the GNSO Review WG completes its primary mandate regarding the review recommendations, the Council will discuss how continuous improvements of GNSO procedures will be handled.

### **3. COUNCIL VOTE – Adoption of Implementation Advisory Group Recommendations to Update Procedure on WHOIS Conflicts with National Laws**

Discussion of this motion during the NCSG monthly policy call largely resulted in our agreement to support this motion should the registrars, who are primarily affected by this policy, agree to support it as well. However, one of the Registrar Stakeholder Group (RrSG) Councilors made a statement regarding this motion indicating the RrSG position on the IAG’s recommendations.

The RrSG found that the proposed modifications to the procedure are not helpful or desirable, as they would not improve the ability of contracted parties to comply with local law. Citing Volker Greimann of the RrSG: “Adding a trigger that is in fact impossible to use and manage jurisdiction means in our view that the IAG has failed in its task assigned to them by this council. And therefore this motion should not pass on that ground alone”. The NCSG Councilors supported the RrSG Councilor’s position, and the motion (which was submitted by the GNSO Chair and RrSG Councilor, James Bladel), and the motion was withdrawn entirely, so no vote took place. Donna Austin, a Registry Stakeholder Group (RySG) Councilor also indicated that the RySG supported the RrSG comment, as did Olivier Crépin-LeBlond on behalf of the At-Large Advisory Committee (ALAC).

Councilors from the IPC and BC expressed frustration with the decision not to adopt the IAG’s recommendations, primarily on a procedural basis on what the Council’s role is in the process to implement the policy.

Note that the IAG’s mandate was not to revise the actual policy on whois conflict with local law, but to review the trigger mechanism as part of the implementation of the policy, and devise new ones, which would assist in contracted parties’ ability to conform with their local privacy/data protection laws. Marilia Maciel of the NCSG explained that the NCSG sees fit for the policy to be reviewed in its entirety, not just the implementation details consisting of the trigger mechanism. Stephanie Perrin of the NCSG reiterated Marilia’s comment, and also explained that the IAG did not achieve as much consensus on its recommendations as is desirable.

The GNSO Council did not agree on a next course of action on this, but decided that more discussion on how to move forward is necessary.

#### **4. COUNCIL DISCUSSION – ICANN Board Letter on New gTLD Subsequent Procedures**

Comments were made on this topic to relay the views of the BC and ALAC. The consensus within those groups now appears to be that a new round of new gTLD applications should not take place until some critical reviews are concluded, including, but not limited to, the Policy Development Process on Rights Protections Mechanisms (RPMs) as well as the Competition and Consumer Choice and Trust (CCT) Review.

The suggested next steps on this discussion item is for each of the GNSO SGs/Cs to appoint a coordinator to organize the position of each of the SGs/Cs, and attempt communicate the positions to the GNSO Council by its meeting on September 29 in preparation for a session with the ICANN Board on this topic. **This is an action item that the NCSG needs to follow up on.**

#### **5. COUNCIL DISCUSSION – Next Steps for the Cross Community Working Group on Internet Governance**

This discussion item was deferred to the next Council meeting.

#### **6. COUNCIL DISCUSSION – Proposed Cost Control Mechanisms and Request for GNSO Council Validation of the Budget for the Cross Community Working Group on Ensuring ICANN Accountability**

Concerns were raised on this topic by NCSG’s Councilor Edward Morris including the lack of travel support budgeted for rapporteurs organizing the work of sub-teams on work stream 2 (WS2), as opposed to SO/AC members who are not all as active on WS2 as most of the rapporteurs. Additionally, Ed raised concerns on lack of staff support for sub-teams on WS2 compared to WS1 as well as the budget put aside for legal expenses over the next two fiscal years, which are collectively about 13% of the total budget of legal expenses on WS1. Finally, Ed also expressed concern about suggestions to rely more on ICANN’s in-house legal team, Jones Day, and expressed doubt on whether or not the CCWG members/participants of the Legal Committee would find this desirable. Ed suggested that the Council communicate to the ICANN Board that the budgeted funds will not cover the expenses appropriately. Similar concerns were raised by BC and IPC Councilors.

#### **7. AOB**

Philip Corwin of the BC expressed concern about the process being used to develop a policy on two-letter domain names registered under gTLDs, and that it appears to be a staff-led policy. This item was also deferred, and the suggestion was made to take it to the Council list.