

## **GNSO NCPH Intersessional Meeting 2017, Reykjavik (Iceland)**

### *Co-chair Session Notes/Action Items/Next Steps*

*(V7May2017)*

This document aggregates session reports provided by the various co-chair teams responsible for scheduled agenda sessions held during the February 2017 NCPH Intersessional Meeting in Reykjavik, Iceland. Meeting participants are asked to review and follow-up as needed and desired. Comments and edits are welcomed.

Session transcripts and recordings of all the sessions can be found here -

<https://community.icann.org/x/LoLDaw>

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#### **Day 1 Plenary Lunch – ICANN Compliance Issues** | Co-chairs: Jonathan Zuck (IPC), Anna Loup (NCUC)

The lunch session focused on ICANN Compliance Issues and was moderated by Jonathan Zuck and Anna Loup with Jamie Hedlund, head of ICANN Contractual Compliance, as a guest presenter. This was Hedlund's first Intersessional as head of ICANN Contractual compliance and this session was, in part, a 'get-to-know' him session. Structured in three parts, this session first served as a questions and answer session with Hedlund about his views regarding ICANN compliance processes, then Anna Loup presented data and document location on the ICANN website, and, finally, the floor was opened for questions from participants.

For Hedlund, ICANN compliance is important for the "legitimacy and [the] credibility and the credibility and legitimacy of the Multiple Stakeholder Model" and he highlighted three initiatives that ICANN Compliance would be focusing on during his tenure. First, a renewed focus on transparency in their reports as well as on the data they publish. Second, is focusing on whether more can be done to deter and locate purveyors of malware. Finally, he proposed a new "ad hoc working group" that would focus on compliance and consumer safeguards. In sum, Hedlund stressed his commitment to dialogue with the community over concerns and questions regarding the Compliance department, and announced a posting for a Director of Consumer Safeguards.

Following Hedlund's presentation, a brief period of questions and answers followed. These questions focused on Hedlund's transition into his role, his relationships with different members within the community, and the logistics regarding the formation of an ad hoc working group. Overall, there was a shared preference for continued dialogue between ICANN Compliance and members of the NCPH.

Anna Loup followed this section with a brief overview of the functionality of the ICANN Compliance website. She highlighted the location of a variety of reports and data, but stressed that the navigation of the website did not enable members of the community ready access to the documentation enabling transparency and accountability.

Finally, Zuck led another round of questions and answers from the participants, highlighting one of the main themes: operational consistency. For Zuck, thinking through this issue using various scenarios, which would be outlined and summarized by the Compliance department, would enable better transparency. First, Brian Winterfeldt, of IPC, focused on the lack of transparent procedures for the PIC

DRP. He described the process as a “black box.” Next, Zuck asked Kathy Kleiman to discuss her scenario. For Kleiman, the focus should be on enabling registrants to have “some kind of voice” when complaints are filed. Finally, Zuck called on Marc Trachtenberg, from the IPC, who discussed an example of a compliant situation and the PIC DRP. For Trachtenberg, he followed up this discussion with a question asking who, if anyone, is following up with registries’ PICs commitments stated in their applications.

**Plenary Session #2 – NCPH Procedural In-House Issues** | Co-chairs: Victoria Sheckler (IPC), Klaus Stoll (NPOC)

*No report received*

**Plenary Session #3 – New gTLDs, Next Phase** | Co-chairs: Tony Harris (ISPCP), Avri Doria (NCSG)

The ISPCP does not support opening the window to new applications until the evaluation proceedings of the recent round have been completed.

The ISPCP was instrumental in the creation of the Universal Acceptance Steering Group - UASG, and an update of the progress achieved to date was provided by Christian Dawson and Mark McFadden, who highlighted the fact that much work must yet be done to ensure widespread acceptance of new gTLDs.

Experience during the recent round has unearthed a significant fact concerning ICANN Accredited Registrars - the four leading registrars account for 54% of domain registrations, and if they do not accept a request from a new gTLD registry to have their domain included in their storefronts, then effectively the new gTLD is denied access to 54% of the potential registrant market.

The problem is worse if the new gTLD is from a developing region, since there are practically no local registrars in these regions, and gTLDs are significantly registered through resellers, most of whom have one of the four dominant registrars as their wholesale operator. This highlights a certain inequity in the way retail of gTLDs is currently structured, i.e., ICANN accredited registrars are the **exclusive** retail outlets for gTLDs, but they are under **no obligation** to carry a new gTLD (they can pick those they find attractive).

When those registrars with a **dominant market share** refuse to carry a new gTLD, this can have a severe impact on the chances of success (or indeed survival) of a new domain. Perhaps this not insignificant potential market access roadblock needs to be detailed in the next applicant guidebook to alert potential applicants and allow them to weigh this into their calculations.

**Plenary Session #4 – Policy Discussion Topic** | Co-chairs: Marc Trachtenberg (IPC), Poncelet Ileleji (NPOC)

The discussion, especially from NCSG folks in the room, centered around the RPM and ways to engage properly within the PDP process. The action item from this session was to create a draft of a brief overview of trademark law document to facilitate discussion.

**Day 2 - Plenary Lunch – ICANN Budgeting Discussions** | Co-chairs: Jimson Olufuye (BC), Ed Morris (NCUC)

Introduction

Against the backdrop of the successful IANA transition of October 1, 2016 and the Empowered Community with Budget oversight role in the new ICANN Bylaws, Section 22.4, participants discussed what measures need to be taken for the NCPH to be responsive in this respect.

#### Discussion Outcomes

After several interventions by participants, opinions coalesce on:

1. The need for each Constituency / Stakeholder group to constitute an internal Budget Committee that would follow the ICANN Budget with a view to providing appropriate oversight; and
2. Setting up of a GNSO Drafting Team whenever the power of the Empowered Community Administration on ICANN Budget is to be exercised.

#### Other Related Discussions

In related discussions on the need for Budget management prudence, participants highlighted that

1. Measures need to be taken by ICANN to ensure that reserve is at par with fiscal budget estimate. Currently, ICANN reserve is less than 50% of annual budget
2. With respect to 1 above, it was raised that a policy needs to be in place
3. ICANN can save a lot of money on travel cost for travelers by ensuring competitive ticketing even if travelers may need to make their travel arrangement for subsequent refund.
4. Travelers are also encouraged to provide ICANN travel with necessary travel feedback for continuous process improvement even as participants appreciate very much the diligence of ICANN Travel team led by Joseph De Jesus
5. ICANN Budget process has improved over time, however, improvement in reporting format is desired. Also, the timing of Xavier's Budget meeting during ICANN meeting need to be re-considered because it is largely unfavorable; and
6. Ability to locate information on ICANN website should be improved.

**Plenary Session #5 – Maintaining the GNSO's traditional policy making leadership position at ICANN |**  
Co-chairs: Tony Holmes (ISPCP), Kathy Kleiman (NCUC)

- We opened with a brief discussions of groups/avenues that are working on gTLD policy outside the GNSO. They include the GAC, ALAC and Public Interest Commitments.
- Our lengthy group discussion wound up focusing on GAC-GNSO and the upcoming IGO-INGO negotiations the Board has asked our GNSO leaders to conduct with the GAC, which exemplified the challenges facing the GNSO.
- Generally and broadly, the GNSO NCPH supports the work of the IGO-INGO Working Group, and the process by which it achieved its final report. We (NCPH) supported the need for the GAC to have participated more actively in that and other Working Groups.
- It is frustrating to have policy changed after so much work is done in the GNSO to create it; we would like to figure out how to avoid returning to debates and reformatting at the very end of the process.

- There is great interest in trying to figure out how to a) notify the GAC of our GNSO policy work earlier in the process, and b) seek GAC input and dialogue earlier in the process - before final recommendations are made. It was proposed that GNSO Council should continue to notify the GAC of progress on key issues at regular intervals, explicitly stating any actions they require the GAC to consider at that particular stage.

**Plenary Session #6 – NCPH “Presenting”** | Co-chairs: Steve DelBianco (BC), Joan Kerr (NCSG)

- Wide agreement that NCPH is more than just a “voting algorithm” for Council. It is also a board director selector and vice chair elector.
- NCPH is not an accountability structure. But Tatiana reminded us that we need a place to publish our procedures for board director selection and vice chair election. Should also post NCPH documents, meeting communiques, etc.
- Agreement that we should shape the future role of NCPH.
- For the 2019 GNSO independent review required by the bylaws, we should define “effectiveness” and suggest review methods and success criteria.
- We agreed that effectiveness could include two dimensions:
  - Effectiveness of the stakeholder groups and constituencies within the NCPH and GNSO; and
  - Effectiveness of the GNSO in the broader context of ICANN board and community. Review and recommendations here could include giving 2 more board seats to GNSO. That would fit with gTLD significance at ICANN, and would allow commercial and non-commercial stakeholders to each nominate a board director.
- All agreed that additional board seats for GNSO were warranted. But some worry that “targeting” new board seats was a dangerous way to proceed.
- Some suggested we should develop effectiveness and scope suggestions in conjunction with the Contracted Parties House.
- Rinalia, chair of the board’s Organizational Effectiveness Committee (OEC), said she’d welcome our suggestions for review scope, whether for all of GNSO or just for NCPH. Reminded us that this review must be done by an outside, independent group. Said that every AC/SO seems to hate the review. Rinalia said that a larger review might cost more, but that cost was not the main factor in selecting the review contractor. Asked whether the broader community should weigh-in on the suggested effectiveness definition and scope.
- Most said that Westlake’s review was not competent.
- We recalled the joint statement ([link\[community.icann.org\]](https://community.icann.org)) from our 2015 NCPH Intersessional, including this:
  - What is required is a thorough review of the current GNSO structure that takes full account of the evolution of the DNS and the interaction that is required between those players who have a major role to play in GNSO policy development. Without recognition of the need to undertake this exercise and commit to a program that is developed with the full cooperation of all impacted parties, an important part of ICANN’s multi-stakeholder model will continue to be viewed as dysfunctional by many of those who remain committed to try and deliver coherent and progressive policy within the current structural architecture of the GNSO.

- Wide agreement to begin developing definition of "effectiveness" and scope/methods of review. Stefania Milan volunteered to help.
- General agreement that NCPH should continue to meet.
- Preference for face-to-face meetings, annually or every two years.
- Suggestion to meet before or after the ICANN B meeting.
- Most were in favor of doing the NCPH intercessional at same place and time as the Contracted Parties House (CPH) Intersessional/GDD meetings.
- Commercial and non-commercial stakeholders live together in this house as a result of a "shotgun" wedding. But however we may have come to be married, we may as well try to make the marriage work.
- Other action items arising from the session:
  - Suggest improvements for the next GNSO review, including defining "effectiveness" and suggesting methods and terms of reference. (Stefania Milan has already provided advice on methods)
  - Look at accountability structure; reviewing best practices, fix voting issues, define and understand NCPH
  - Revisit the NCPH Model during the next GNSO review