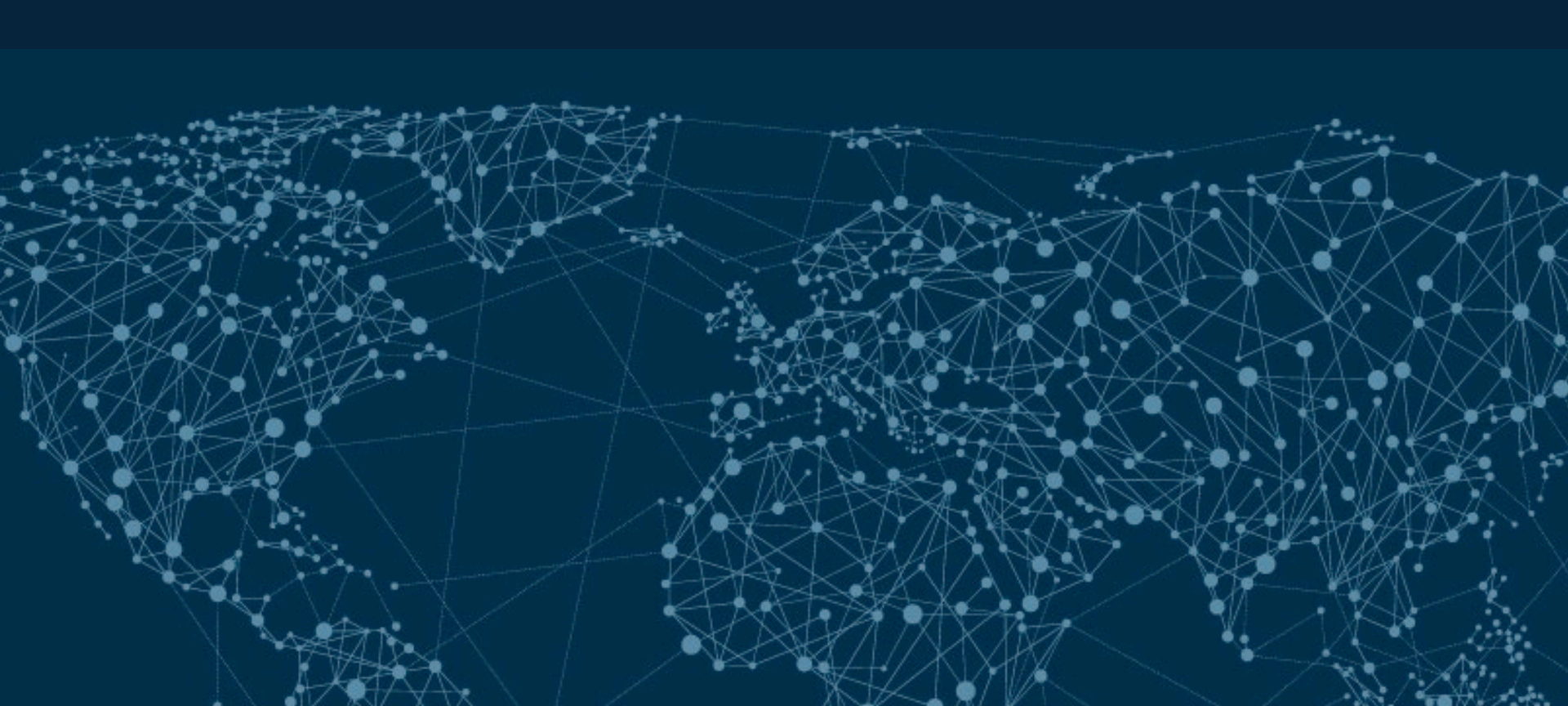# ICANN 58

COMMUNITY FORUM

COPENHAGEN

11–16 March 2017

GNSO Working Session

GNSO Council | ICANN58 | 12 March 2017

Agenda

1 IGO-INGO Curative Rights PDP

2 Next-Gen RDS PDP

3 New gTLDs Subsequent Procedures PDP

4 RPM Review PDP

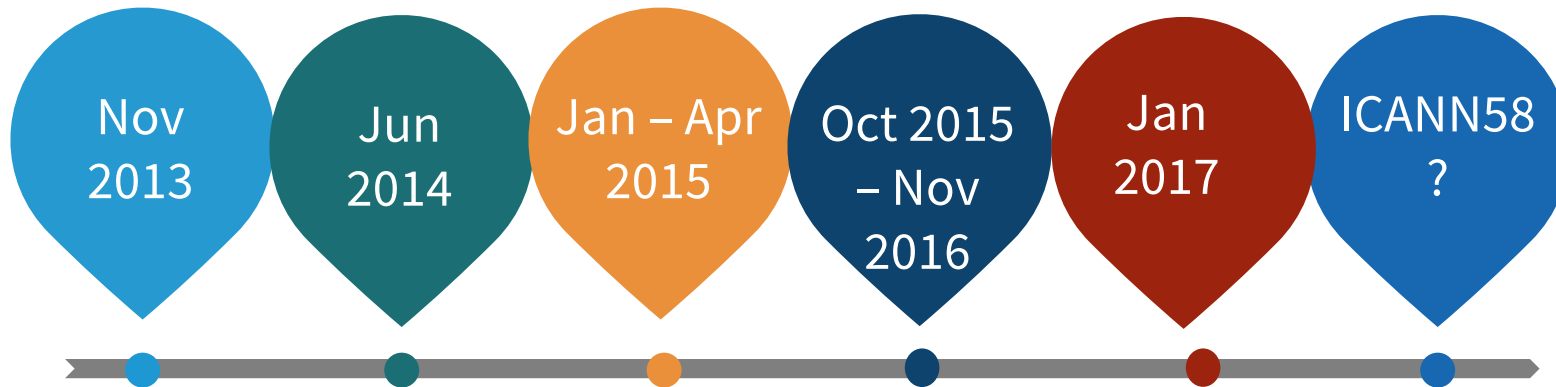**5** Privacy/Proxy Accreditation IRT

6 Discussion of motions

1. IGO-INGO Access to Curative Rights Protections PDP

Philip Corwin and Petter Rindforth

OVERVIEW: Project Timeline & Major Milestones

Nov 2013

Original GNSO PDP: Some preventative protections recommended

Issue Report on IGO-INGO curative rights recommended

Jun 2014

This PDP initiated on IGO-INGO curative rights

Jan – Apr 2015

PDP WG solicits early input from all SO/ACs

Input received from SSAC, GAC, several GNSO SG/Cs, and IGOs

Oct 2015 – Nov 2016

PDP WG consults external legal expert

PDP Working Group reviews IGO Small Group Proosal

Jan 2017

PDP WG publishes Initial Report for Public Comment (closing **30 March 2017**)

ICANN58 ?

PDP WG completes Final Report

Timing may align with completion of outstanding GAC-GNSO discussions on IGO acronym protections

- **Ongoing Board-facilitated GAC-GNSO dialogue on IGO acronym protections is broader than this PDP scope but includes curative rights topics**
  - *IGO Small Group Proposal includes both preventative and curative rights recommendations*
  - *But within the GNSO, issues relating to Curative Rights and Preventative Protections have been dealt with under distinct GNSO processes (i.e. two separate, sequential PDPs)*
  - *However, WG recognizes that IGOs deserve meaningful curative rights protections that allow preventative protections (e.g. IGO notified when a third party registers a domain matching the IGO's acronym) to be effective*

- **Final outcome and timing of reconciliation of GAC advice and adopted GNSO policy unclear**
  - *Any agreed principles from the facilitated discussions need to be reviewed and approved through the respective GAC and GNSO processes – takes time and may require public comment*
  - *These must still be factored into the final recommendations from this PDP*

- **Current PDP recommendations differ from IGO Small Group Proposal**
  - *WG beginning to review public comments received*

- ⊙ **Working Group's preliminary recommendations differ from the IGO Small Group Proposal supported by governments:**
  - ⊙ Small Group Proposal is for:
    - ▪ *Post-registration notice only to an affected IGO when a third party registers a domain matching or containing the IGO acronym (no pre-registration notice to a potential registrant);*
    - ▪ *Separate dispute resolution procedure (appealable via arbitration)*
    - ▪ *Rapid relief mechanism modeled after the URS*
  - ⊙ Preliminary PDP recommendations are:
    - · *No new dispute resolution procedure*
    - · *No essential substantive changes to the UDRP and URS*
    - · *No change to Mutual Jurisdiction clause of UDRP and URS:*
      - ○ *Standing to file to be shown by an IGO's having followed the requisite notification process under Article 6ter of the Paris Convention for the Protection of Industrial Property - broadening the scope and availability of UDRP/URS to IGOs*
      - ○ *Recommendation made based on external legal expert opinion that there is no uniform international law on IGO jurisdictional immunity*
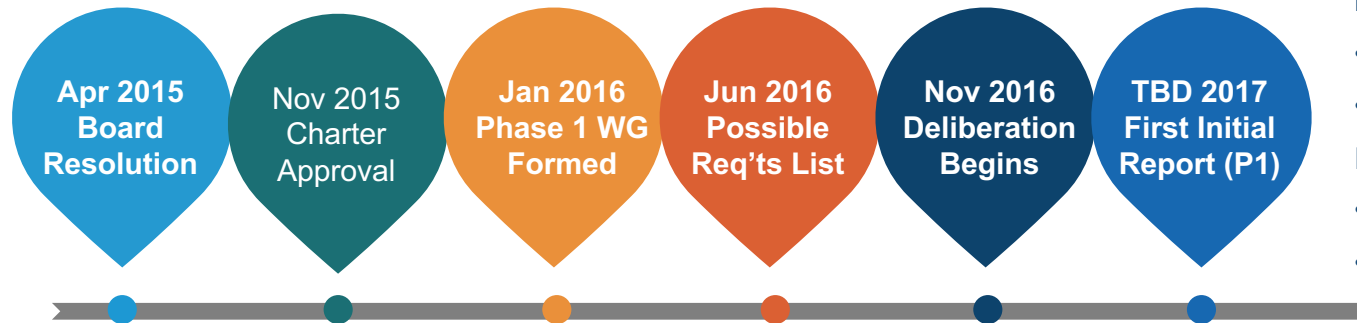
How can the GNSO Council & ICANN community assist?

- **GNSO Delegation participating in Board-facilitated GAC-GNSO dialogue on reconciling inconsistent GAC advice and previously-adopted GNSO policy (from the 2013 IGO-INGO PDP)**

  - Preventative protections (including any potential modification of the original 2013 PDP recommendations) should be aligned with appropriate curative rights mechanisms

    - *However, any final solution regarding adequate IGO protections in all gTLDs should include consideration of the deliberations and recommendations from this PDP*

- **Monitoring and managing timelines for the two work tracks – ongoing reconciliation of inconsistent advice and completion of this PDP**

  - *Timely community input for consideration by the Working Group in preparing its Final Report will be very helpful*

  - *Note that implementation of any and all final solutions may need to be integrated into a third, ongoing work track – implementation of the preventative protections from the original 2013 PDP – for efficiency and consistency*

Sessions at ICANN58 and Further Information

- o Open Working Group community session on **Wednesday 15 March 2017, 1345 – 1500, Hall B4.2**: http://sched.co/9nms

- o Background information: https://gnso.icann.org/en/group-activities/active/igo-ingo-crp-access

- o ICANN58 Background Briefing Paper: https://gnso.icann.org/en/issues/policy-briefing-igo-ingo-crp-access-27feb17-en.pdf

- o Working Group online wiki space (with meeting transcripts, call recordings, draft documents and background materials): https://community.icann.org/x/37rhAg

2. Next-Generation gTLD Registration Directory Services PDP

Chuck Gomes

ICANN

RDS PDP: Project Timeline & Major Milestones

Apr 2015 Board Resolution

Nov 2015 Charter Approval

Jan 2016 Phase 1 WG Formed

Jun 2016 Possible Req'ts List

Nov 2016 Deliberation Begins

TBD 2017 First Initial Report (P1)

Next Steps:

- Second Initial Report (Phase 1)
- Final Report (Phase 1)

If a next-gen RDS is needed:

- Phase 2 (Policy Development)
- Phase 3 (Implementation and Coexistence Guidance)

WHAT THIS PROJECT IS ABOUT

In April 2015, the ICANN Board reaffirmed 'its request for a Board-initiated GNSO policy development process to define the purpose of collecting, maintaining and providing access to generic top-level domain (gTLD) registration data, and consider safeguards for protecting data, using the recommendations in the Expert Working Group (EWG) Final Report as an input to, and, if appropriate, as the foundation for a new gTLD policy'.

Following publication of the PDP Final Issue Report, the GNSO Council adopted the charter for the PDP WG, which commenced its deliberations at the end of January 2016. During the **first phase its work**, the WG has been tasked with providing the GNSO Council with recommendations on the following two questions:

1) What are the fundamental requirements for gTLD registration data?
2) Is a new policy framework and next-generation registration directory services (RDS) needed to address these requirements?

What are the current challenges & issues under discussion?

- Issues now under discussion: Phase 1 deliberation on Fundamental Requirements for 3 charter questions:
    - Users/Purposes: Who should have access to gTLD registration data and why?
    - Data Elements: What data should be collected, stored, and disclosed?
    - Privacy: What steps are needed to protect data and privacy?
- Initial points of rough consensus reached since ICANN57 are reflected in our [working document](#)
- Current challenges include burnout, complexity, duration, and conflicting views
    - When agreeing upon individual requirements proved difficult, we refocused on "Key Concepts"
    - To find common ground, we narrowed the focus of initial deliberation to "thin data" and collection

How can the GNSO Council & ICANN community assist?

- o At ICANN58, sessions with data commissioners may help us better understand key data protection and privacy concepts, so that our WG can apply them to registration data & directory services.

- o As Key Concepts are identified by our WG, we are using polls to confirm rough consensus & identify next steps. GNSO SGs/Cs and ACs/SOs can assist by encouraging their members who participate in this PDP to participate in meetings and polls, keep an open mind, listen to each other, and be willing to consider compromises.

- o When this WG posts its First Initial Report for public comment, GNSO SGs/Cs and ACs/SOs can assist by providing robust feedback on WG-identified possible requirements pertaining to RDS Purpose, Data Elements, and Privacy.

Sessions at ICANN58 and Further Information

- Open Working Group meeting/community sessions:
  Saturday 11 March 13:45 CET: http://sched.co/9npN and
  Wednesday 15 March 13:45 CET: http://sched.co/9npc

- Background information:
  Background Docs: https://community.icann.org/x/QIxlAw
  Phase 1 Docs: https://community.icann.org/x/p4xlAw

- ICANN58 Background Briefing Paper:
  http://gnso.icann.org/en/issues/policy-briefing-next-gen-rds-27feb17-en.pdf

- Working Group Charter:
  https://community.icann.org/x/E4xlAw

- Working Group online wiki space (with meeting transcripts,
  call recordings, draft documents and background materials):
  https://community.icann.org/x/rjJ-Ag

Additional Slides

Should gTLD registration <u>thin data elements </u>be accessible for any purpose or only for specific purposes?

1. The WG should continue deliberation on the purpose(s) of "thin data."
2. Every "thin data" element should have at least one legitimate purpose.
3. Every existing "thin data" element does have at least one legitimate purpose for collection.

For what specific (legitimate) purposes should gTLD registration <u>thin data elements </u>be collected?

4. EWG-identified purposes apply to at least one "thin data" element.
5. Domain name control is a legitimate purpose for "thin data" collection.
6. Technical Issue Resolution is a legitimate purpose for "thin data" collection.
7. Domain Name Certification is a legitimate purpose for "thin data" collection.
8. Business Domain Name Purchase or Sale is a legitimate purpose for "thin data" collection.
9. Academic / Public Interest DNS Research is a legitimate purpose for "thin data" collection.
10. Regulatory and Contractual Enforcement is a legitimate purpose for "thin data" collection.
11. Criminal Investigation & DNS Abuse Mitigation is a legitimate purpose for "thin data" collection.
12. Legal Actions is a legitimate purpose for "thin data" collection.
13. Individual Internet Use is a legitimate purpose for "thin data" collection.

Initial points of rough consensus (iterative deliberation on-going)

For thin data only -- Do existing gTLD registration directory services policies sufficiently address compliance with applicable data protection, privacy, and free speech laws within each jurisdiction?

14. Existing gTLD RDS policies do NOT sufficiently address compliance with applicable data protection, privacy, and free speech laws <u>about purpose</u>.
15. As a WG, we need to agree upon a purpose statement for the RDS.

What should the over-arching purpose be of collecting, maintaining, and providing access to gTLD registration (thin) data?

16. A purpose of gTLD registration data is to provide info about the lifecycle of a domain name.
17. A purpose of RDS is to identify domain contacts and facilitate communication with domain contacts associated with gTLDs, [based on approved policy]
18. A purpose of gTLD registration data is to provide a record of domain name registrations
19. A purpose of RDS policy is to facilitate the accuracy of gTLD registration data

Phase 1 Workplan

Currently, we are working on Task 12) Deliberating on Fundamental Requirements for:
Users/Purposes
Data Elements
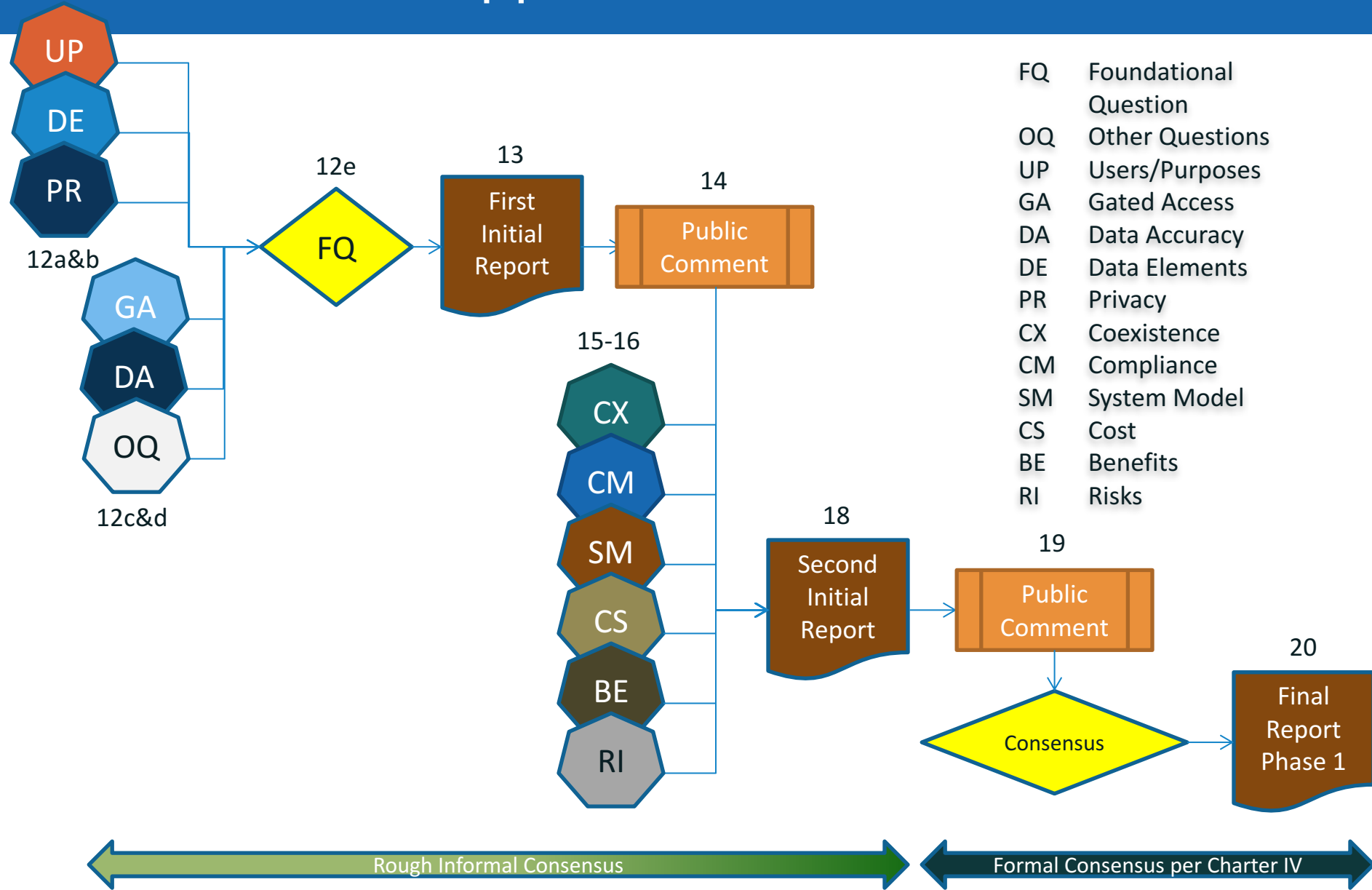**Privacy**
Gated Access
Data Accuracy

Our First Initial Report will be published in Task 13), attempting to answer the Foundational Question:
"Is a new next-gen RDS needed or can the existing WHOIS system be modified to satisfy fundamental requirements?"

1. • Form WG leadership team
2. • Review WG membership for gaps
3. • Establish WG meeting schedule
4. • Review, identify, & summarize key inputs to PDP
5. • Review PDP Rules of Engagement
6. • Develop PDP WG Work Plan
7. • Formal Early Outreach to ICANN SOs/ACs/SGs/Cs
8. • Develop Initial Possible Requirements List
9. • Informal Outreach on Initial Possible Requirements List
10. • Finalize Initial Possible Requirements List
11. • Decide how to reach consensus during deliberation
12. • Deliberate on possible Fundamental Requirements
13. • Publish First Initial Report for Phase 1 Public Comment
14. • Review/analyze Public Comments on First Initial Report
15. • Expand Phase 1 Work Plan based on Task 12 outcome
16. • Deliberate on possible Cross-cutting Requirements for NG RDS or WHOIS
17. • Finalize Draft Recommendations
18. • Publish Second Initial Report for Phase 1 for Public Comment
19. • Review/analyze Public Comments on Second Initial Report
20. • Publish Final Report for Phase 1

Phase 1 approach to reach consensus

FQ — Foundational Question
OQ — Other Questions
UP — Users/Purposes
GA — Gated Access
DA — Data Accuracy
DE — Data Elements
PR — Privacy
CX — Coexistence
CM — Compliance
SM — System Model
CS — Cost
BE — Benefits
RI — Risks

UP
DE
PR
12a&b

GA
DA
OQ
12c&d

12e FQ

13 First Initial Report

14 Public Comment

15-16
CX
CM
SM
CS
BE
RI

18 Second Initial Report

19 Public Comment

Consensus

20 Final Report Phase 1

Rough Informal Consensus

Formal Consensus per Charter IV

3. New gTLD Subsequent Procedures PDP

Avri Doria and Jeff Neuman

Timeline

Mar 2017
Send CC2 to SO/AC/SG/Cs

June 2017
Complete preliminary WT deliberations

Sept 2017
Consider CC2 input and consider WT recommendations at plenary level

Dec 2017
Publish Initial Report for public comment

Feb 2018
Publish summary of public comment

Sept 2018
Complete Final Report
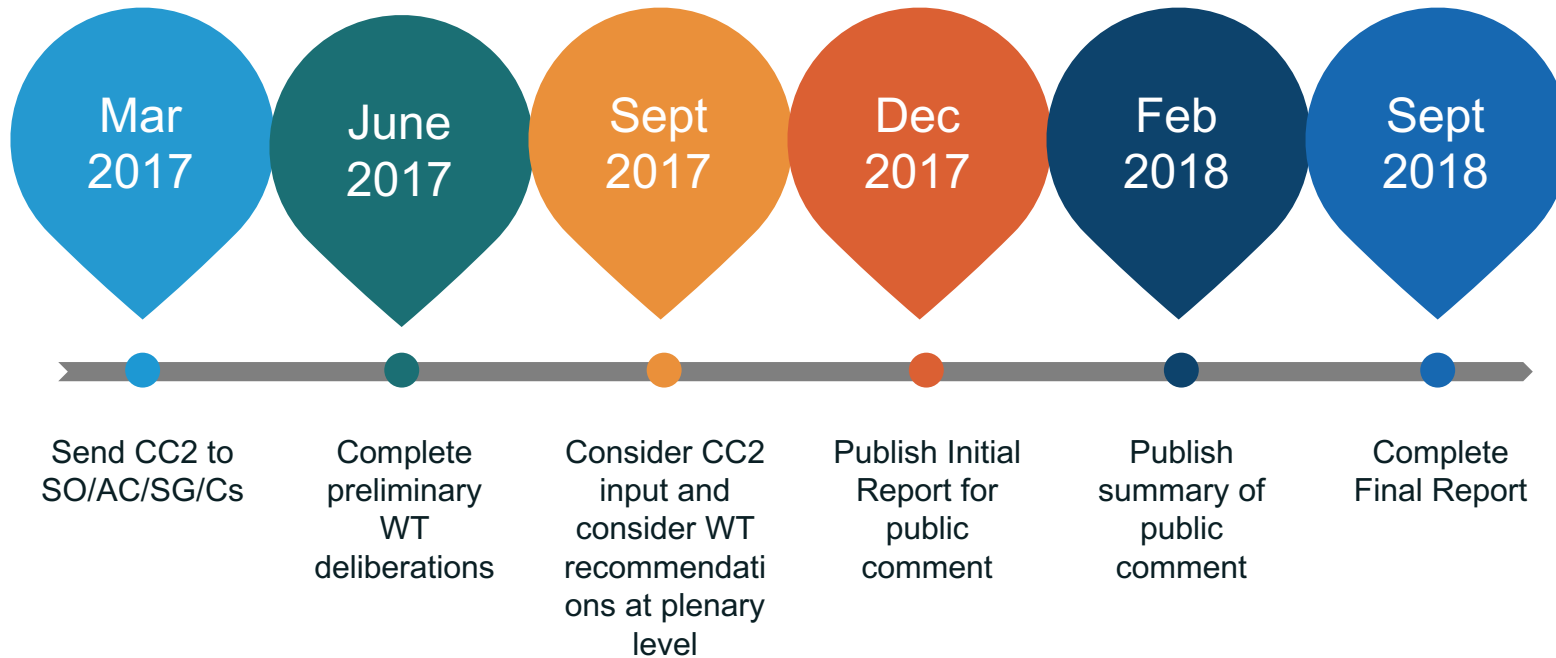
Next Steps

What this Project is About

This PDP was chartered by the GNSO Council in January 2016 to consider the experiences from the 2012 round of the New gTLD Program to determine what additions or modifications are needed for the existing new gTLD policy recommendations.

⊙ The WG is establishing 3 drafting teams to cover overarching issues. The WG is also broken into 4 Work Tracks to address the remaining subjects within its charter.

⊙ Biggest Issues:

  ⊙ Extensive list of subjects in charter that must all be considered
  ⊙ Parallel work within the community on topics within scope of this PDP (e.g., geographic names, community applications, etc.)
  ⊙ Interconnected efforts (e.g., RPMs, CCT-RT, CWG-UCTN, etc.) can make it difficult to stay coordinated and informed

How can the GNSO Council & ICANN community assist?

⦿ Provide support in coordinating parallel tracks within the community.

⦿ Help encourage community participation from the GNSO and beyond.

Sessions at ICANN58 and Further Information

Meetings
- Face to face session on 11 March: recordings will be available here - http://sched.co/9nmb
- New gTLD Program Reviews on 13 March from 15:15-16:45: http://sched.co/9no3
- Community dialogue session on 15 March from 17:00-18:30: http://sched.co/9sZB

Resources
- GNSO Project Page: https://gnso.icann.org/en/group-activities/active/new-gtld-subsequent-procedures
- WG Wiki: https://community.icann.org/x/RgV1Aw
- WG Charter: https://gnso.icann.org/en/issues/new-gtlds/subsequent-procedures-charter-21jan16-en.pdf
- WG Work Plan: https://community.icann.org/x/NAp1Aw

Appendix A: WG Subjects

WG Subjects

Work Track	Subject
0	Cancelling Subsequent Procedures
0	Predictability
0	Community Engagement
0	Applications Assessed in Rounds
0	Different TLD Types
0	Application Submission Limits

Work Track	Subject
1	Accreditation Programs
1	Applicant Support
1	Clarity of Application Process
1	Application Fees
1	Variable Fees
1	Application Submission Period
1	Application Queuing
1	Systems
1	Communications
1	Applicant Guidebook

WG Subjects, cont.

Work Track	Subject
2	Base Registry Agreement
2	2nd Level RPM's
2	Reserved Names
2	Registrant Protections
2	IGO / NGO Procedures
2	Closed Generics
2	Applicant Terms and Conditions
2	Registrar Non Discrimination & Registry / Registrar Separation
2	Registry / Registrar Standardization
2	TLD Rollout
2	Contractual Compliance
2	Global Public Interest

WG Subjects, cont.
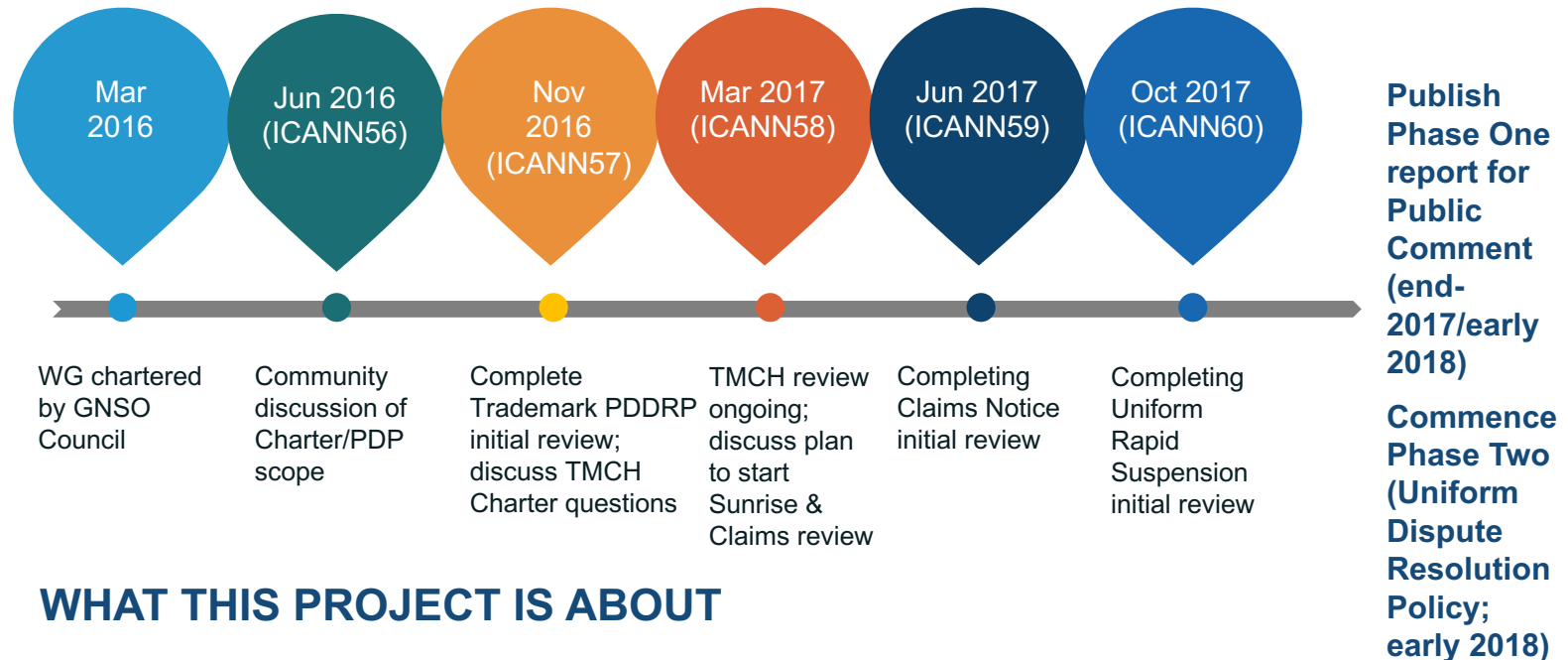
Work Track	Subject
3	Objections
3	Look at all the objections that were filed, how they turned out,
3	Role of Independent Objector
3	New gTLD Applicant Freedom of Expression
3	Communuty Applications (Community Priority Evaluations)
3	String Similarity (Evaluations)
3	Develop list of string similarity outcomes (e.g., plurals). Include auctions.
3	Accountability Mechanisms

Work Track	Subject
4	Internationalized Domain Names
4	Universal Acceptance
4	Applicant Reviews
4	Name Collisions
4	Security and Stability

4. Review of all Rights Protection Mechanisms in all gTLDs PDP

Kathy Kleiman, Philip Corwin, and J. Scott Evans

OVERVIEW: Project Timeline & Major Milestones

Mar 2016 — WG chartered by GNSO Council

Jun 2016 (ICANN56) — Community discussion of Charter/PDP scope

Nov 2016 (ICANN57) — Complete Trademark PDDRP initial review; discuss TMCH Charter questions

Mar 2017 (ICANN58) — TMCH review ongoing; discuss plan to start Sunrise & Claims review

Jun 2017 (ICANN59) — Completing Claims Notice initial review

Oct 2017 (ICANN60) — Completing Uniform Rapid Suspension initial review

Publish Phase One report for Public Comment (end-2017/early 2018)

Commence Phase Two (Uniform Dispute Resolution Policy; early 2018)

WHAT THIS PROJECT IS ABOUT

This PDP was chartered by the GNSO Council to review all the Rights Protection Mechanisms (RPMs) that are currently in operation

- Phase One focuses on the RPMs created for the 2012 New gTLD Program
- Phase Two on the 1999 Uniform Dispute Resolution Policy (which applies to all gTLDs).

What are the current challenges & issues under discussion?

- ◉ Timelines remain aggressive, though not unreasonable
  - ○ *Phase One needs to be completed prior to launch of next expansion round*
- ◉ Need to coordinate with other parallel efforts
  - ○ *E.g.: the ongoing PDP on New gTLD Subsequent Procedures*
  - ○ *Current need to review recent Final Report on Trademark Clearinghouse (TMCH) Independent Review*
- ◉ Continuing need to obtain reliable data
  - ○ *Not clear that all sources will necessarily be able or willing to provide needed data (e.g. confidentiality issues); lack of response to initial outreach to SO/AC/SG/Constituencies (with some exceptions)*
- ◉ PDP deals with complex issues where there are likely to be strong and divergent views
  - ○ *Especially on longstanding issues that have divided parts of the community since the topic of trademark protection was first identified as an overarching issue for the 2012 New gTLD Program*
- ◉ Large numbers of Members and Observers, but not clear that more than a core number are able to participate actively or regularly
  - ○ *Likely increase in use of Sub Teams may exacerbate this problem*

How can the GNSO Council & ICANN community assist?

- ⊙ Working Group has identified data gathering (possibly including professional survey design) as a priority
  - o *This may require budget and additional resources (e.g. using the new GNSO Data & Metrics Request process)*
- ⊙ Working Group will be seeking information periodically from Service Providers, Registries, Registrars, Registrants and other ICANN SO/ACs
  - o *Need to minimize too many outreach requests and manage their timing, important that affected users provide responses*
- ⊙ Working Group to review need for additional face to face meetings to complete Phase One
  - o *GNSO Council requested to give any such request from the Working Group due consideration*
- ⊙ Working Group to consider how to best use Council and community liaisons
  - o *GNSO Council can provide guidance on how Council and community liaisons should function*

Sessions at ICANN58 and Further Information

- o Open Working Group meeting/community session on **Wednesday 15 March 2017, 0900 – 1030, Hall C1.4**: http://sched.co/9npd

- o Background information: https://gnso.icann.org/en/group-activities/active/rpm

- o ICANN58 Background Briefing Paper: https://gnso.icann.org/en/issues/policy-briefing-rpm-review-27feb17-en.pdf

- o Working Group Charter: https://community.icann.org/x/2CWAAw

- o Working Group online wiki space (with meeting transcripts, call recordings, draft documents and background materials): https://community.icann.org/x/wCWAAw

5. Privacy and Proxy Services Accreditation IRT

Darcy Southwell

Background/Project Status

Overview

- **Project Summary:** Privacy and Proxy Service Provider Accreditation Program IRT is working with the ICANN organization to implement a new accreditation program pursuant to Final PDP Recommendations.

- **Impact:** This new accreditation program will impact Registrants, P/P Providers, Registrars and Third Parties who use the Registration Data Directory Service to locate information about and contact Registrants.

- **Benefits:** Benefits of this new program will include increased consistency/predictability among P/P Providers' practices and Compliance enforcement of contractual requirements.

Project Background

- [Final Recommendations](#) adopted by GNSO Council in January 2016

- ICANN Board approved Final Recommendations 9 August 2016

- Implementation Review Team convened in October 2016

- IRT meets weekly, on Tuesdays at 15:00 UTC

IRT Accomplishments

- Relatively large IRT (43 members) has been very active (50%+ present at each meeting)

- IRT has had 10 working meetings (plus half-day session at ICANN58)

- IRT has:
  - discussed all of ICANN org's initial questions related to the Policy document;
  - reviewed proposal on WHOIS labeling;
  - reviewed proposals on data retention and escrow; and
  - provided input to ICANN on initial operational questions.
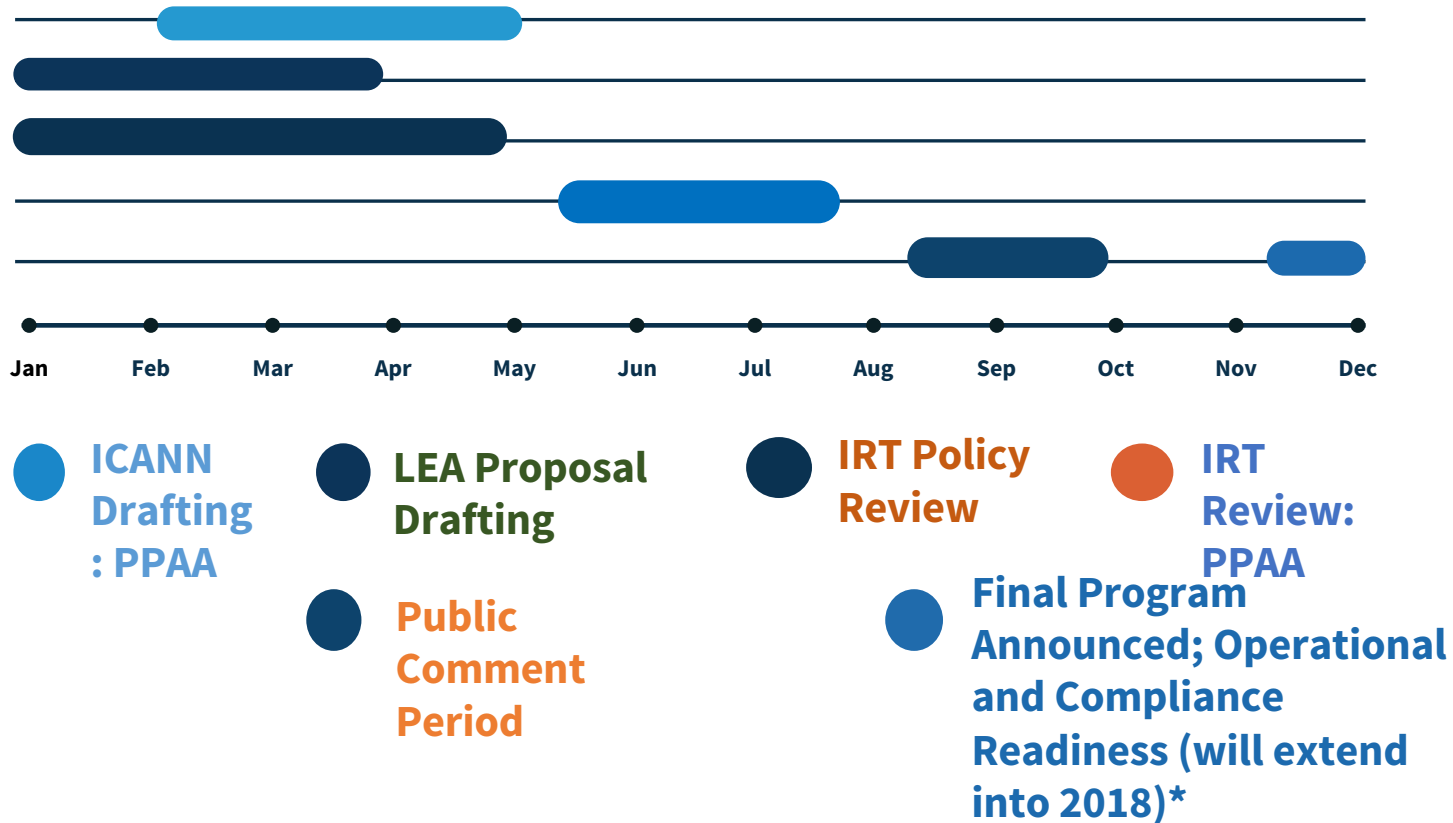
Project Timeline

Project Timeline

- Originally projected Policy Effective Date: 1 January 2019

- Increased pace, at IRT recommendation, to better align with expiration of interim Registrar Accreditation Agreement specification (1 January 2018)

- Estimated posting of draft Policy and Contract for public comment: September 2017

- Final announcement date will depend on extent of changes needed based on public comments

- Will assess timeline status quarterly

Steps to Public Comment: Projected

March 2017 — Review of Policy Document

April 2017 — Policy Review; Contract Questions

May 2017 — LEA Framework; De-Accreditation/Transfers

June 2017 — Contract Review

July 2017 — Contract Review

August 2017 — Finalize Materials for Public Comment

Public Comment

Privacy/Proxy IRT Timeline (updated February 2017)

Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec

ICANN Drafting : PPAA

LEA Proposal Drafting

IRT Policy Review

IRT Review: PPAA

Public Comment Period

Final Program Announced; Operational and Compliance Readiness (will extend into 2018)*

* Timing could be impacted significantly by scope of work required after public comment period.

Engage with ICANN

ICANN

Thank You and Questions

IRT wiki:
https://community.icann.org/display/IRT/Privacy+and+Proxy+Services+Accreditation+Implementation

twitter.com/icann

facebook.com/icannorg

youtube.com/user/icannnews

linkedin.com/company/icann

soundcloud.com/icann

weibo.com/ICANNorg

flickr.com/photos/icann

slideshare.net/icannpresentations

6. Discussion of Motions

Motion – Preliminary Adoption of GNSO Standing Selection Committee (SSC) Charter

Full language of the motion is available at https://community.icann.org/x/lJvRAw

Resolved,

The GNSO Council adopts the GNSO Standing Selection Committee (SSC) Charter on an interim basis (see [include link] and instructs the GNSO Secretariat to launch a call for volunteers per the membership criteria outlined in the SSC Charter as soon as possible with a view to establishing the SSC no later than X date.

The GNSO Council tasks the SSC to carry out the review and selection of GNSO endorsed candidates for the Registration Directory Service Review Team for Council consideration at the latest by its 20 April 2017 meeting.

The GNSO Council tasks the SSC to develop the criteria and the process for the selection of the GNSO Representative to the Empowered Community for GNSO Council consideration by its June 2017 meeting, and following the approval by the GNSO Council, carry out the selection process.

Following the completion of two selection processes , the GNSO Council requests the SSC to report back to the GNSO Council with its assessment of whether the charter provides sufficient guidance and flexibility to carry out its work, and/or whether any modifications should be considered.

The GNSO Council thanks the small group of volunteers, Susan Kawaguchi, Ed Morris and the GNSO Council leadership team, for its work on the charter.