

Revised GNSO Operating Procedures and ICANN Bylaws

Overview

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GNSO Weekend Session

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Background

- ⦿ GNSO Rights & Obligations under Revised Bylaws Drafting Team (Bylaws DT) tasked to put forward recommendations for changes needed to ICANN Bylaws and/or GNSO Operating Procedures to enable effective participation of GNSO as a decisional participant in the Empowered Community.
- ⦿ The GNSO Council accepted the DT Final Report on 01 December 2016 and directed “ICANN Policy Staff to draft proposed language for any necessary modifications or additions to the GNSO Operating Procedures and, if applicable, those parts of the ICANN Bylaws pertaining to the GNSO”. Request included an evaluation whether the proposed modifications were considered consistent with the post-transition Bylaws .
- ⦿ As part of this assignment Staff worked with Bylaws DT to address any open issues, inconsistencies identified and confirm assumptions.
- ⦿ Staff report on how each recommendations was addressed as well as proposed changes to GNSO Operating Procedures & ICANN Bylaws published for public comment on 19 June.

Approach

- ⦿ Minimalist approach by focusing on the minimum changes needed to implement the DT recommendations
- ⦿ Highlighted in staff report additional work needed to facilitate the GNSO's participation in the Empowered Community, such as creating templates or fact sheets as well as development of relevant processes by GNSO Council as well as GNSO SG/Cs
- ⦿ Folded in outstanding changes to the GNSO Operating Procedures:
 - Updated references to the ICANN Bylaws as many changed;
 - Updated the generalized schedule for board elections to align with new timing and notification requirements;
 - Included references to the Governmental Advisory Committee (GAC) Quick Look Mechanism in the PDP Manual as a result of the GAC-GNSO Consultation Group recommendations, and
 - Included references to the inclusion of a draft PDP WG Charter in the Preliminary Issue Report in the PDP Manual as a result of the GNSO Improvements recommendations.

Overview of changes triggered by DT Recs

1

No changes needed because sufficient guidance is provided or has been addressed otherwise (e.g. SSC)

4

Waiver for current timing requirements in specific circumstances to meet DP obligations

2

Changes to ICANN Bylaws to reflect new voting thresholds

5

Clarification that certain petitions submitted by an individual need to go via SG/C

3

Changes to GOP to reflect that certain decisions are accepted “automatically” through consent agenda

6

Clarification that all petitions by an individual for Board Director removal need to be submitted directly to the GNSO Council

New Voting Thresholds (ICANN Bylaws)

(j) The voting thresholds described below shall apply to the following GNSO actions as a Decisional Participant in the Empowered Community. For any action not listed, the default threshold for the GNSO to act as a Decisional Participant in the Empowered community requires a simple majority vote of each House:

(i) **Amendment of PTI Articles of Incorporation** as contemplated in Section 16.2: requires an affirmative vote of a GNSO Supermajority.

(ii) **GNSO Council Inspection Request** as contemplated in Section 22.7: requires an affirmative vote of more than one-fourth (1/4) vote of each House or majority of one House.

(iii) **GNSO Council Inspection Remedy**, as contemplated in Section 22.7 - e, and Stakeholder Group / Constituency Inspection Remedy, as contemplated in Section 22.7 – e(ii) and e(iii), for an inspection requested by the GNSO as a Decisional Participant in the Empowered Community: requires an affirmative vote of more than one-fourth (1/4) vote of each House or majority of one House.

(iv) **Amendments to Fundamental Bylaws and Article Amendments** as contemplated by Section 25.2 of the Bylaws, Asset Sales, as contemplated by Article 26 of the Bylaws, amendments to ICANN Articles of Incorporation: requires an affirmative vote of a GNSO Supermajority.

New Voting Thresholds (continued)

- (v) **Approval of a Nominating Committee Director Removal Petition** as contemplated in Annex D, Article 3, Section 3.1(b) and support for a petition submitted by a Petitioning Decisional Participant as contemplated in Section 3.2(d): requires an affirmative vote of a GNSO Supermajority.
- (vi) **Approval of a Nominating Committee Director Removal Supported Petition** as contemplated in Annex D, Article 3, Section 3.1(f): requires an affirmative vote of a GNSO Supermajority.
- (vii) **Approval of a petition to remove a director holding seat 13 or 14** as contemplated in Annex D, Article 3, Section 3.2(a): requires an affirmative vote of at least three-quarters (3/4) of the House that appointed that Director.
- (viii) **Approval of a petition notice to remove a director holding seat 13 or 14** as contemplated in Annex D, Article 3, Section 3.2(f): requires an affirmative vote of at least three-quarters (3/4) of the GNSO Council which should at least three-quarters (3/4) of the House that appointed that Director.
- (ix) **Approval of a Board Recall Petition** as contemplated in Annex D, Article 3, Section 3.3(b) and support for another Petitioning Decisional Participant: requires an affirmative vote of a GNSO Supermajority.
- (x) **Approval of a Board Recall Supported Petition** as contemplated in Annex D, Article 3, Section 3.3(e): requires an affirmative vote of a GNSO Supermajority.

Decisions accepted 'automatically'

At the beginning of the meeting, the Chair asks members what items they wish to have removed from the consent agenda and discussed individually. If any Council member requests that an item be removed from the consent agenda, it must be removed, unless it concerns a request made by a GNSO Council member on behalf of a SG or C for an ICANN inspection request or an inspection remedy⁴ (see section 22.7 of the ICANN Bylaws). Any such request is automatically added to the consent agenda and can only be removed at the request of the GNSO Council member that made the original request or the person serving as an alternate for such Council member. Council members may request that any other item be removed for any reason. They may wish, for example, to discuss the item, to query the item, or to register a vote against the item. If an item is removed from the consent agenda, it is added to the meeting agenda for that meeting, unless the Council Chair in consultation with the Council Vice-Chairs determines differently.

GNSO as Decisional Participant in EC

5.1 GNSO Actions

Any actions relating to the GNSO's role as a Decisional Participant in the Empowered Community will follow the relevant provisions in the ICANN Bylaws and/or GNSO Operating Procedures with the exception of those actions noted in section hereunder. The GNSO Council may make available templates to facilitate the submission of motions relating to these actions in which case these are to be posted on a clear and accessible page.

The GNSO commits to adequate planning and a regular review of its schedule to ensure alignment with the timing foreseen for actions relating to the GNSO's role as a Decisional Participant.

The GNSO Representative to the Empowered Community Administration will only act as directed by the GNSO as the Decisional Participant.

Submission of petitions

5.2 Petitions

All petitions concerning a director removal process (see Annex D – Article 3) submitted by an individual must be submitted directly to the GNSO Council. For this purpose, the GNSO Council will develop a clear process and rules for the submission of such petitions, including any requirements for the criteria to be included in a petition. These rules will be added to the GNSO Operating Procedures as an Annex once available.

Petitions, as per Annex D, Article 2 – section 2.2, must be submitted through a GNSO Stakeholder Group or Constituency to the GNSO Council for consideration. GNSO Stakeholder Groups and Constituencies must develop and publish rules for the submission of petitions, including any requirements for the criteria to be included in a petition. These rules will be added to the GNSO Operating Procedures as an annex once available.

Waiver for timing requirements

5.3. Waiver for petitions

In order to meet the timelines outlined in Annex D, for example, articles 2 and 3 of the ICANN Bylaws concerning petitions, the GNSO Council may waive the deadlines and timing requirements outlined in these GNSO Operating Procedures as well as the requirements for voting outside of a meeting, as recommended by the GNSO Chair and Council Vice-Chairs.

Proposed modification in response to public comment: “as recommended **unanimously** by the GNSO Chair and Council Vice-Chairs”.

Public comment feedback

- ⦿ 6 submissions received (RySG, RrSG, BC, IPC, ISPCP, NCSG)
- ⦿ Explicit support for proposed changes to GNSO Operating Procedures and ICANN Bylaws and consistency with Bylaws DT recommendations from RySG, BC, RrSG, NCSG, no specific objections from others.
- ⦿ BC, IPC and ISPCP restated their position, as outlined in the minority report to the Bylaws DT Final Report, that “the GNSO Council is not the appropriate vehicle for GNSO to exercise Empowered Community rights and responsibilities” but instead these responsibilities should be held directly by GNSO Stakeholder Groups and Constituencies.
- ⦿ A small number of specific comments were provided that staff believes were already addressed, can be easily addressed through minor modifications and/or need to be addressed elsewhere.

Next Steps

Council to consider next steps, which could include, for example:

- ⦿ Adoption of the revised GNSO Operating Procedures and ICANN Bylaws with the minor updates as suggested in the analysis of comments
- ⦿ Further consideration of the comments submitted by the GNSO Council
- ⦿ Consultation with the Bylaws DT

NOTE: Until such time revised GOP and Bylaws are in place, any and all decisions related to the GNSO as a Decisional Participant in the Empowered Community fall under the existing rules / voting thresholds.

Any changes to the ICANN Bylaws also require Board approval.

Engage with ICANN – Thank You and Questions



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