

Introduction

At the GNSO Council leadership's request, the RDS PDP WG leadership team has developed the following table 'to present a set of options' for the Council's consideration should the ICANN Board decide to implement an interim model for compliance with the GDPR as a Temporary Policy / specification.

This table provides a high-level comparison of the types of policy development vehicles, e.g., new PDP, new Expedited PDP (EPDP) or repurposed Registration Directory Services (RDS) PDP, that could potentially be used to meet the requirement in the Temporary Policy specification for a Consensus policy development process to be concluded within the required one year time period. Pros and cons associated with each vehicle have been included in the table. The left-hand column indicates elements that could potentially differ between the three vehicles (e.g., structure of the team), while the cells to the right expand on the pros and cons for each of those elements.

The success and duration of a PDP/EPDP depends, in part, on the combination of key factors such as complexity, participation, representation, frequency of meetings, expertise, diversity of positions and budget. As such, all of these elements will need to be considered, regardless of which approach is taken. Similarly, consideration should be given to what will be needed to create incentives as well as commitment and trust amongst the members of the (E)PDP Team to ensure a collaborative and productive working environment.

Summary

The pros and cons of each vehicle are provided in the table, but a short summary is provided below for ease of reference.

The primary advantages of a new PDP are Team Structure, Chartering, Opportunity for Input, Working Methods, and Voting Threshold - namely, there are advantages to gaining a fresh start yet using a process the Council and ICANN Community are familiar with. The primary disadvantage is Number of Steps to Complete and Average Time to complete - namely, there are more steps to complete compared to an EPDP, and there is not an example of a PDP that has completed in under one year. Accordingly, it is unlikely that a new PDP could be completed in under one year, which is the available time should a temporary policy be adopted.

The primary advantages of an EPDP are Team Structure, Number of Steps to Complete, and Additional Factors -- namely, the Council would have flexibility to determine team structuring and working methods. Additionally, an EPDP has fewer required steps, which could result in significant time savings. The primary disadvantages of an EPDP include Opportunity for Input and Voting Threshold -- namely, as the EPDP does not require an Issues Report and the accompanying public comment period, this could

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reduce the community buy-in necessary to reach consensus. Additionally, unlike a new PDP, the GNSO initiation of an EPDP requires a supermajority vote of the GNSO Council.

The primary advantages of a Repurposed RDS PDP include Number of Steps to Complete and Chartering-- namely, as many steps, including chartering, have already been completed, there could be potential time savings. The primary disadvantages of a Repurposed RDS PDP include Team Structure, Working Methods, and Average Time to complete: namely, the current WG has become extremely polarized and without significant change, it is unlikely a Repurposed RDS PDP could be completed in under one year.

| Elements | Policy Development Vehicle – Comparison of Pros and Cons | | |
|---|--|---|---|
| | New Policy Development Process ¹ | Expedited Policy Development Process ² | Repurposing of existing RDS PDP ³ |
| <p>Team Structure</p> <p>From the GNSO Operating Procedures: “the GNSO Council may form a working group, task force, committee of the whole or drafting team (the “PDP Team”), to perform the PDP activities”.</p> | <p>Up to the Council to determine the new PDP team structure.</p> <p>Pros:</p> <ul style="list-style-type: none"> • Council can decide what is the most appropriate structure for the task at hand and the timeline available. Various models have | <p>Up to the Council to determine the new EPDP team structure.</p> <p>Pros:</p> <ul style="list-style-type: none"> • Council can decide what is the most appropriate structure for the task at hand and the timeline available. Various models have | <p>The current team format is the open WG model. As of 16 April, there are 244 WG members and 179 WG observers.</p> <p>Pros:</p> <ul style="list-style-type: none"> • Although the team format can be changed by modifying the charter, repurposing the existing WG avoids the time and effort of |

¹ The processes and procedures for a PDP are outlined in Annex A of the ICANN Bylaws and the PDP Manual which is part of the GNSO Operating Procedures.

² An EPDP may be initiated by the GNSO Council only in the following specific circumstances: (1) to address a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of such an adopted recommendation; or (2) to provide new or additional policy recommendations on a specific policy issue that had been substantially scoped previously, such that extensive, pertinent background information already exists, e.g. (a) in an Issue Report for a possible PDP that was not initiated; (b) as part of a previous PDP that was not completed; or (c) through other projects such as a GGP. The processes and procedures for an EPDP are outlined in Annex A-1 of the ICANN Bylaws and the EPDP Manual which is part of the GNSO Operating Procedures.

³ The current scope and method of operation of the RDS PDP WG can be found in the WG’s charter: <https://community.icann.org/x/E4xlAw>

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| | New Policy Development Process ¹ | Expedited Policy Development Process ² | Repurposing of existing RDS PDP ³ |
| | <p>been tried and tested in the context of other efforts that could serve as a potential model (e.g. CCWG, Standing Committees).</p> <ul style="list-style-type: none"> • It would be much easier to develop a new structure from scratch than changing the structure of the existing PDP. | <p>been tried and tested in the context of other efforts that could serve as a potential model (e.g. CCWG, Standing Committees).</p> <ul style="list-style-type: none"> • It would be much easier to develop a new structure from scratch than changing the structure of the existing PDP. • New team(s) could be formed by involving existing team members who have historical knowledge and experience and who affirm their commitment to participate constructively in an effort to reach consensus. • If the EPDP structure is chosen by the Council the charter would have to include a requirement for all | <p>forming a new team.</p> |

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| | New Policy Development Process ¹ | Expedited Policy Development Process ² | Repurposing of existing RDS PDP ³ |
| | <p>Cons:</p> <ul style="list-style-type: none"> For a structure that is not a working group model, the rules will need to be agreed upon and included in the charter, where different from the GNSO Working Group Guidelines, and this could take more time. | <p>EPDP members act as representatives of their respective communities and bound by the agreed upon perspective.</p> <p>Cons:</p> <ul style="list-style-type: none"> For a structure that is not a working group model, the rules will need to be agreed upon and included in the charter, where different from the GNSO Working Group Guidelines, and this could take more time. | <p>Cons:</p> <ul style="list-style-type: none"> The existing WG has become polarized and may have difficulty reaching consensus. A change in team format could potentially alienate existing members that may no longer be eligible to participate in the new format. |
| <p>Chartering</p> <p>A charter will be required for each option. The scope of the PDP is expected to be set by the Board as a result of its action on the temporary policy / specification.</p> | <p>The Council may adopt the charter as included in the Final Issue Report or form a charter drafting team to develop a charter. Adoption of the charter requires an affirmative vote of more than one-third (1/3) of each House or more than two-thirds (2/3) of one House.</p> | <p>The initiation request for an EPDP may also include a proposed EPDP Team Charter, which the Council may consider at the same time as the EPDP Initiation Request. If no such Charter is provided, or if the proposed Charter is not approved, Section 8 of the PDP Manual will apply to the drafting of the</p> | <p>A charter is already in place, but it would need to be modified to fit with the requirements of the Consensus policy development process as foreseen under the temporary policy specification. A change to the existing charter would require a simple majority vote of each House.</p> |

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| | <p>Pros:</p> <ul style="list-style-type: none"> As the charter is part of the Preliminary Issue Report, community input on the charter could be obtained in that way and immediately incorporated as part of the Final Issue Report. A new PDP charter could start from a clean slate, which may be faster to develop than reworking the existing charter. <p>Cons:</p> <ul style="list-style-type: none"> If the charter that is included in the Issue Report is not adopted, forming a charter drafting team would add significant time to the process. | <p>EPDP Team Charter. Adoption of a Charter requires an affirmative Supermajority Vote of the Council.</p> <p>Pros:</p> <ul style="list-style-type: none"> Incorporation of the EPDP Charter in the EPDP initiation request would save time. An EPDP is by definition more focused, which implies a simpler charter. <p>Cons:</p> <ul style="list-style-type: none"> If the charter is not adopted that is included in the EPDP initiation request, forming a charter drafting team would add significant time to | <p>Pros:</p> <ul style="list-style-type: none"> As a charter is already in place, certain elements may not require change. <p>Cons:</p> <ul style="list-style-type: none"> Assuming that the issue to be addressed for temporary policy is significantly narrower than the original PDP, changing the existing charter may be |

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| | | <p>the process.</p> <ul style="list-style-type: none"> High voting threshold means that there needs to be general support for the proposed charter. | <p>complex and/or could result in a complete rewrite.</p> |
| <p>Number of Steps to Complete</p> <p>How many required steps, in total, are involved, e.g., Preliminary Issue Report, Public Comment, etc.?</p> | <p>17 Steps</p> <p>Pros:</p> <ul style="list-style-type: none"> Required Initial Report and Public Comment Period allow for community input at early stage, increasing buy-in. <p>Cons:</p> <ul style="list-style-type: none"> Significant number of steps that need to be completed increase duration of new PDP as compared to other options. | <p>14 Steps (note: prelim. and final issue reports (and associated public comment periods) are not required steps of an EPDP)</p> <p>Pros:</p> <ul style="list-style-type: none"> Time saving as a result of initial steps related to Issue Report not being required. <p>Cons:</p> <ul style="list-style-type: none"> Skipping the Initial Report/Public Comment phase could reduce community buy-in necessary to reach consensus. | <p>11 steps (note: many required steps have already been completed, e.g., prelim. issue report, public comment, PDP initiation, etc.)</p> <p>Pros:</p> <ul style="list-style-type: none"> Potential time saving as a number of the initial steps have already been completed by the existing PDP. <p>Cons:</p> <ul style="list-style-type: none"> The existing PDP charter includes 11 complex inter-dependent questions, addressed in 3 phases that would take years to complete - unless the charter is |

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| | | | significantly revised. |
| <p>Working Methods</p> <p>Working methods are defined either in the charter and/or the GNSO Working Group Guidelines. There is, however, a fair amount of flexibility in how work can be organized and how deliberations are carried out. One should factor in that a change in working methods could require additional resources.</p> | <p>PDP WG charter is expected to include method of operation, if different from GNSO WG Guidelines. Note that GNSO WG Guidelines provide significant flexibility to WGs to organize their work.</p> <p>Pros:</p> <ul style="list-style-type: none"> • Council has the ability to determine/guide working methods that enable the team to meet the requirements and timeline of the PDP. <p>Cons:</p> | <p>EPDP Initiation Request is expected to include method of operation, if different from GNSO Working Group Guidelines. Note that GNSO WG Guidelines provide significant flexibility to WGs to organize their work.</p> <p>Pros:</p> <ul style="list-style-type: none"> • Council has the ability to determine/guide working methods that enable the team to meet the requirements and timeline of the PDP. <p>Cons:</p> <ul style="list-style-type: none"> • This working structure would require buy in from each community to work together in an agreed upon manner to come to consensus. | <p>GNSO WG Guidelines dictate current working methods. Any changes would need to be done through a charter change.</p> <p>Pros:</p> <ul style="list-style-type: none"> • Utilizing an already established PDP will likely create time savings for example eliminating or reducing formative steps (selecting leadership team, picking meeting time, etc) <p>Cons:</p> <ul style="list-style-type: none"> • Changing the working methods of an existing PDP is likely to be more difficult than it would be for a newly formed PDP or EPDP. |
| Average time to complete | 763 Days (Median) until Board | Between 180 - 380 Days | Existing PDP WG formed in |

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| | New Policy Development Process ¹ | Expedited Policy Development Process ² | Repurposing of existing RDS PDP ³ |
| <p>On average, how long does it take for all required steps in each process? Note: as an EPDP has never been initiated, the numbers provided are estimates from p. 75 of the Policy and Implementation WG Final Report.</p> | <p>Vote</p> <p>Pros:</p> <ul style="list-style-type: none"> Projected duration can be based on past experience. <p>Cons:</p> <ul style="list-style-type: none"> Based on current data available, no PDP has ever completed (Board Vote) in under a year. | <p>(indicates rough estimate). The assumption is that an EPDP is expected ‘to address a narrowly defined policy issue’.</p> <p>Pros:</p> <ul style="list-style-type: none"> Objective / assumption of an EPDP is that it can be completed in an expedited manner. <p>Cons:</p> <ul style="list-style-type: none"> An EPDP has never been initiated so there is no data available to provide an estimate of the different steps, although many are similar to that of a PDP. | <p>January 2016 but has not yet delivered first Initial Report. Total duration will therefore substantially exceed new PDP/EPDP, but remainder could be similar to new EPDP (180-380 Days) if scope were substantially narrowed.</p> <p>Pros:</p> <p>Cons:</p> <ul style="list-style-type: none"> Duration will depend in part upon any revised charter. |
| <p>Voting Threshold</p> <p>How do the voting thresholds differ for each mechanism?</p> | <p>In the case of a Board initiated PDP which would be the result of the adoption of a temporary policy / specification, there is no initiation vote by the Council.</p> | <p>The GNSO initiation of an EPDP requires a supermajority vote.</p> | <p>The PDP was already initiated at the request of the Board so no further initiation vote would be required, only a GNSO vote on the change of the charter would be needed.</p> |

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| | <p>Pros:</p> <ul style="list-style-type: none"> • No Council vote required to initiate the PDP. <p>Cons:</p> <ul style="list-style-type: none"> • Council and Board would still need to dialog to ensure that any Board-identified issue is addressed by GNSO-adopted charter. | <p>Pros:</p> <ul style="list-style-type: none"> • A supermajority vote would indicate that there is broad community support. <p>Cons:</p> <ul style="list-style-type: none"> • No ability for the Board to initiate this process, so there would need to be an agreement between the Council and Board that this is the path to be followed as the temporary policy / specification in principle foresees a Board initiated PDP. • High voting threshold that needs to be met so general support is required. | <p>Pros:</p> <ul style="list-style-type: none"> • Only a GNSO vote on the charter changes would be required. <p>Cons:</p> <ul style="list-style-type: none"> • Council and Board would need to dialog regarding any Board revision of issue to be addressed by RDS PDP and resulting GNSO charter changes. • Getting a vote to significantly change the charter may be difficult. |
| <p>Leadership</p> <p>How would the leadership differ for each mechanism?</p> | <p>Unless a Chair has already been named by the Chartering Organization, normally a Chair will be selected at the first meeting of the WG. Until that time, the Chartering Organization’s liaison may</p> | <p>Unless a Chair has already been named by the Chartering Organization, normally a Chair will be selected at the first meeting of the WG. Until that time, the Chartering Organization’s liaison may</p> | <p>The RDS PDP WG selected a Chair and four vice-chairs (one from each GNSO SG) to lead the effort.</p> |

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| | <p>fulfill the role of interim Chair. A Working Group may elect to have Co-Chairs and Vice-Chairs. Under extraordinary circumstances, ICANN staff may be requested to perform administrative coordination of the WG until such time a Chair can be appointed.</p> <p>Pros:</p> <ul style="list-style-type: none"> • Having Council name a Chair could save time. For example, Council could consider appointing an ‘outsider’, someone with no stake or interest in the topic but a known facilitator / consensus builder? <p>Cons:</p> | <p>fulfill the role of interim Chair. A Working Group may elect to have Co-Chairs and Vice-Chairs. Under extraordinary circumstances, ICANN staff may be requested to perform administrative coordination of the WG until such time a Chair can be appointed.</p> <p>Pros:</p> <ul style="list-style-type: none"> • Having Council name a Chair could save time. For example, Council could consider appointing an ‘outsider’, someone with no stake or interest in the topic but a known facilitator / consensus builder? <p>Cons:</p> | <p>Pros:</p> <ul style="list-style-type: none"> • Leadership is already in place so could continue, therefore saving time and no learning curve. <p>Cons:</p> <ul style="list-style-type: none"> • Leadership could be associated with previous work efforts and failure to reach consensus, which could reduce acceptance from repurposed PDP team. |

