Motions 2022-11-17

Motion to Approve the GNSO Council Liaison to the Rights Protection Mechanisms Phase 1 Implementation Review Team

Submitted by: Greg DiBiase
Seconded by: Sebastien Ducos

Whereas,
1. The Internet Corporation for Assigned Names and Numbers (ICANN) organization is seeking volunteers to participate in an Implementation Review Team (IRT) to assist in the implementation of the policy recommendations from the Phase 1 work of the Policy Development Process (PDP) Working Group on the Review of All Rights Protection Mechanisms (RPMs) in All Generic Top-Level Domains (gTLDs).
2. The Consensus Policy Implementation Framework (CPIF) envisions that ICANN org Global Domains and Strategy (GDS) will seek a liaison to the IRT from the GNSO Council.
3. At its meeting on 20 October 2022 the GNSO Council called for volunteers for the liaison to the RPMs IRT and John McElwaine volunteered.

Resolved,
1. The GNSO Council acknowledges John McElwaine as the GNSO Council Liaison to the RPMs IRT.
2. The GNSO Council directs staff on behalf of Council leadership to communicate the results of this motion to the GDS staff.

Approval of a Project Change Request from the Internationalized Domain Names Expedited Policy Development Process

Submitted by: Farell Folly
Second by: Tomslin Samne Nlar

Whereas,
1. On 20 May 2021, the GNSO Council voted to initiate the Internationalized Domain Names Expedited Policy Development Process (IDNs-EPDP);
2. The EPDP Team began meeting in August 2021 and has been making substantial progress on its deliberation of charter questions;
3. The EPDP Team has determined that it will facilitate the implementation planning of the New gTLD Subsequent Procedures by bifurcating its work into two phases, with Phase 1 covering topics related to top-level IDN gTLD definition and variant management, and Phase 2 covering issues pertaining to second-level IDN variant management;
4. The EPDP Team has also determined that a timeline extension is required to complete its work due to the diversity and complexity of IDN issues, additional data collection needs, review of ICANN org input for draft recommendations, and public comment-related processes;
5. The EPDP leadership team has submitted a Project Change Request outlining the complete rationale for the substantive changes to the project plan and timeline.

RESOLVED,
1. The GNSO Council approves this Project Change Request.
2. The GNSO Council instructs policy support staff to update the IDNs-EPDP Team’s project plan, timeline, and other materials accordingly, and post them on the EPDP wiki project space.

GNSO Council adoption of EPDP Phase 2 Small Team Addendum to Preliminary Report

Submitted by: Sebastien Ducos
Seconded by: Thomas Rickert

WHEREAS,

1. Following the delivery by ICANN org of the System for Standardized Access/Disclosure (SSAD) Operational Design Assessment (ODA), the GNSO Council formed the EPDP Phase 2 small team which was tasked to provide the GNSO Council with its feedback on:
   - Whether the ODA has correctly interpreted the intent of the SSAD recommendations in the proposed implementation;
   - Whether the ODA has overlooked any key aspects of the SSAD recommendations that should be factored in by the ICANN Board when it considers the recommendations;
   - Its view on the concerns identified by the ICANN Board and potential options that could be considered, either in the form of changes to the proposed implementation or the policy recommendations themselves, to address these concerns (note, these are expected to be high level suggestions at this stage);
   - Any other aspects that help inform the Council’s deliberations and consultation with the ICANN Board.
2. The small team delivered its preliminary report to the GNSO Council on 4 April 2022.

3. Following its review of the preliminary report, the GNSO Council requested that the ICANN Board direct ICANN org “to proceed with further developing the SSAD Light Design” while pausing the consideration of the SSAD recommendations.

4. ICANN org published the Whois Disclosure System Design Paper on 13 September 2022 and presented it to the small team during its sessions (#1 and #2) at ICANN75.

5. The small team reviewed the Whois Disclosure Design Paper and provided its feedback and recommendations on how to proceed to the GNSO Council on 7 November 2022 in the form of an addendum to its Preliminary Report.

6. The GNSO Council, as the manager of the GNSO policy development process, reviewed and considered the addendum in light of the potential impacts on the SSAD.

7. Although it is not the role of the GNSO Council to approve or not approve moving forward with operational proof of concepts, the Council is supportive of efforts such as this one that can provide additional data to the ICANN Board in deciding whether or not to approve the SSAD recommendations outlined in the EPDP Phase 2 Final Report.

RESOLVED,

1. The GNSO Council accepts the EPDP Phase 2 small team findings and recommendations as outlined in the addendum.
2. The GNSO Council requests that the GNSO Secretariat transmits the addendum to the ICANN Board.
3. The GNSO Council confirms that pending the implementation and subsequent running of the Whois Disclosure System for a period of up to two (2) years, the SSAD recommendations should remain paused for consideration by the ICANN Board.
4. The GNSO Council thanks the EPDP Phase 2 small team for its work and requests it to remain available to continue work on this topic as part of the next steps in this process which aims to inform the further consideration of the SSAD recommendations by the ICANN Board.

Motion - Registration Data Accuracy Scoping Team write up for assignments #1 and #2 recommendations

Submitted by: Greg DiBiase
Seconded by: Thomas Rickert

WHEREAS,

1. The GNSO Council adopted a proposal on 21 October 2020 which recommended that a Scoping Team addresses the effects of GDPR on Registration Data accuracy requirements and the Whois Accuracy Reporting System (ARS), stating, “a scoping team would be tasked to, ‘facilitate community understanding of the issue; assist in scoping and defining the issue; gather support for the request of an Issue Report, and /or serve as a means to gather additional data and/or information before a request [for an Issue Report] is submitted’.
2. On 4 November 2020, GNSO SG/Cs as well as ICANN SO/ACs were informed of the Council's intent to form a Registration Data Accuracy Scoping Team and were requested to indicate if they would be interested in sending representatives to this effort.
3. At the same time, the GNSO Council also requested that ICANN org develop a briefing document that outlines both (i) existing accuracy requirements and programs and (ii) the corresponding impact that GDPR has had on implementing / enforcing these requirements and programs. This briefing paper was delivered to the Council in February 2021.
4. Following the Council discussion of the ICANN org briefing paper in April 2021, Council leadership put together a first proposal outlining possible instructions to the Registration Data Accuracy Scoping Team.
5. As a result of input that was provided by different Council members on the first proposal, the Council decided at its May 2021 meeting to form a small team to further review and revise the instructions to the scoping team.
6. The small team, consisting of one Council member from each GNSO Stakeholder Group or Constituency, two NomCom appointed Council members and the GNSO Liaison to the GAC (as an observer), submitted its recommendations in relation to the formation as well as the instructions for the Registration Data Accuracy Scoping Team to the Council on 9 July 2021 for Council's consideration.
7. The GNSO Council confirmed the formation of the Registration Data Accuracy Scoping Team and its instructions during its meeting on 22 July 2021.
8. The GNSO Council confirmed the Chair for the Scoping Team during its meeting on 23 September 2021.
9. The Scoping Team started its deliberations on 5 October 2021 focusing its efforts on assignments #1 (enforcement and reporting) and #2 (measurement of accuracy).
10. The Scoping Team delivered its write up for assignments #1 and #2 to the GNSO Council on 5 September 2022.
11. The GNSO Council was briefed on the write up and its recommendations during the Council meeting at ICANN75 and continued its deliberations during its October Council meeting.

RESOLVED,

1. The GNSO Council adopts recommendation #3 of the write up which recommends 1) pausing the work in relation to proposals that require access to registration data, 2) encouraging ICANN org to proceed with their outreach to the EDPB as well as the Data Protection Impact Assessment in connection with the scenario(s) in which the request and processing of registration data takes place as a matter of urgency, and 3) requests that ICANN org and Contracted Parties finalize the negotiations on the Data Processing Agreement (DPA) as soon as practicable as the absence of a completed DPA may act as a roadblock for policy work before Council.
2. The GNSO Council defers consideration of recommendations #1 and #2 until such time the DPA negotiations between ICANN org and Contracted Parties have completed and there is feedback from ICANN org on if/how it anticipates the requesting and processing of registration data will be undertaken in the context of measuring accuracy, or for six months, whichever is the shorter.

3. Once the DPA negotiations are completed and the feedback referred to at paragraph 2 is received from ICANN org, the GNSO Council will review the formation and instructions to the Scoping Team to ensure these are still fit for purpose and request the Scoping Team to further consider potential proposals that require access to registration data as well as how these impact the existing recommendations #1 and #2 (e.g. should these still be considered by the GNSO Council for adoption, or in the context of proposals that require access to registration data these may no longer be relevant or a priority?). If, after 6 months from this resolution, the DPA negotiations are not completed and/or the required feedback referred to at paragraph 2 has not been provided by ICANN org, Council will discuss and determine whether or not to continue deferring the consideration of recommendations #1 and #2.

4. Taking into account the delay with which the write up was delivered, as well as some of the challenges that were shared with the Scoping Team’s Chair during his briefing to the Council, Council leadership will reach out informally to Scoping Team members to better understand the issues encountered to help inform the Council’s review of the formation and instructions.

5. Council leadership is requested to send a communication to ICANN org in relation to recommendation #3 (as well as Contracted Parties in relation to the DPA) as well as communicate the Council’s decision to non-GNSO groups participating in this effort (ALAC, GAC and SSAC) as well as the Scoping Team.

6. The GNSO Council thanks Michael Palage, outgoing Chair, and Olga Cavalli, outgoing Council liaison, for their efforts. As part of its review of the formation and instructions to the Scoping Team, the Council will consider next steps for finding new leadership for this effort.

Motion - DNS Abuse Small Team Report

Submitted by: Mark Datysgeld

Seconded by: Sebastien Ducos

WHEREAS,

1. The GNSO Council recognizes that the topic of DNS abuse is a longstanding topic and the GNSO has undertaken a variety of activities on this topic in the past, including considering which aspects of the subject of registration abuse are within ICANN’s mission to address and in particular, which are appropriate for ICANN to establish policies that are binding on gTLD registry operators and ICANN-accredited registrars[1].

2. In February 2022, the GNSO Council tasked a small team consisting of Council members to consider what policy efforts, if any, the GNSO Council should consider undertaking to support the efforts already underway in the different parts of the community to tackle DNS abuse.

3. As part of its deliberations, the small team reached out to all GNSO Stakeholder Groups and Constituencies, as well as the At-Large Advisory Committee (ALAC), the Governmental Advisory Committee (GAC), the Security and Stability Advisory Committee (SSAC) and the DNS Abuse Institute asking for input on what problem(s) policy development specifically is needed to mitigate, if any, as well as the expected outcomes if policy development would be undertaken.

4. In considering the external input received, the small team realized that the suggestions provided can generally be allocated to one or more of the following three buckets:
   a. Issues that may benefit from education / communication / outreach;
   b. Issues that may benefit from contractual negotiations between ICANN org and Contracted Parties; and,
   c. Issues that may benefit from GNSO policy development.

5. The small team delivered its report, containing 4 recommendations, to the GNSO Council on 10 October.

6. The GNSO Council received a briefing on the report and its recommendations during its October Council meeting.

RESOLVED,

1. The GNSO Council accepts the recommendations as outlined in the DNS Abuse Small Team report and requests that the leadership of the small team works with Council leadership on developing the respective communications as foreseen under recommendations #2, #3 and #4.

2. In relation to recommendation #1, the Council commits to considering requesting the development of a Preliminary Issue Report on the topic of malicious registrations after the outreach and communication as foreseen under recommendations #2, #3 and #4 have taken place and the Council has had an opportunity to consider the progress made from efforts related to that outreach. If the Council determines that a Preliminary Issue Report is needed, it must be undertaken in a way that avoids overlap and/or duplication of efforts.

3. The GNSO Council thanks the small team for its efforts, as well as the community groups that contributed to it.

[1] Some past work includes: