Final Proposed Agenda 2024-04-18

GNSO Council Agenda 18 April 2024

Please note that all documents referenced in the agenda have been gathered on a Wiki page for convenience and easier access: https://community.icann.org/x/AiDyEg.

This agenda was established according to the GNSO Operating Procedures v3.5, updated on 15 March 2023.

For convenience:

- An excerpt of the ICANN Bylaws defining the voting thresholds is provided in Appendix 1 at the end of this agenda.
- An excerpt from the Council Operating Procedures defining the absentee voting procedures is provided in Appendix 2 at the end of this agenda.

GNSO Council meeting on Thursday, 18 April 2024 at 21:00 UTC: https://tinyurl.com/2xcnuymd

14:00 Los Angeles; 17:00 Washington DC; 22:00 London; 23:00 Paris; 00:00 Moscow (Friday); 07:00 Melbourne (Friday)

GNSO Council Meeting Remote Participation: https://icann.zoom.us/j/92238556789?pwd=QnlHK1JSbdI7FFZSjRjOnM5TkNGdz09

Councilors should notify the GNSO Secretariat in advance if they will not be able to attend and/or need a dial out call.

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Item 1: Administrative Matters (5 minutes)

1.1 - Roll Call

1.2 - Updates to Statements of Interest

1.3 - Review / Amend Agenda

1.4 - Note the status of minutes for the previous Council meetings per the GNSO Operating Procedures:

Minutes of the GNSO Council Meeting on 15 February 2024 were posted on 02 March 2024.

Minutes of the GNSO Council Meeting on 06 March 2024 were posted on 23 March 2024.

Item 2: Opening Remarks / Review of Projects & Action List (0 minutes)

2.1 - Review focus areas and provide updates on specific key themes / topics, to include review of Projects List and Action Item List.

Item 3: Consent Agenda (5 minutes)

- GNSO Council Review of the GAC Communiqué
- GNSO Council Small Team Guidance Document
- Confirmation of Standing Predictability Implementation Review Team (SPIRT) Charter Drafting Team Leadership (Chair - Nitan Walia; Vice-chair - Alan Greenberg; GNSO Council liaison - Anne Aikman-Scalese)

Item 4: COUNCIL DISCUSSION - Deferral of Policy Status Report Request - Expiration Policies (10 minutes)

The GNSO Council previously considered when to request a Policy Status Report ("PSR") for the purpose of conducting a review of the two Expiration Policies, the Expired Domain Name Deletion Policy ("EDDP") and the expired Registration Recovery Policy ("ERRP"). In November 2020, given concerns about its capacity and no known issues with the policies, the Council agreed to delay the request for the Policy Status Report (PSR) for a period of 24 months. After 24 months had passed, the Council reconsidered whether it was an appropriate time to request a Policy Status Report.

To that end, in July 2022, the Council agreed that it would be helpful to consult with both registrars and ICANN org to help determine if there are any known issues or concerns with either of the two Expiration Policies which could warrant requesting a PSR.

In making its decision whether to request to a PSR at this time, the Council consulted:

1. Registrars, who were asked to flag substantial issues with the policies that would warrant a near team request for policy status report and did not note any issues.
2. ICANN Compliance, who provided a write-up, noting confusion with key terms in the policy and persistent registrant confusion with the auto-renew grace period and aftermarket activities, et.al.
3. ICANN org Registrant Program, which provided a catalog of the available educational resources on domain name expiration and renewal (Brian Gutterman's update at Council)
In reviewing these materials, the Council determined that the EDDP and ERRP seem to have been implemented as intended and imminent policy work is not needed at this time. Accordingly, the GNSO Council will reconsider a PSR on the Expiration Policies in five years time, or earlier, if requested.

Here, the Council will vote to consider a PSR on the Expiration Policies in five years.

4.1 - Introduction of Topic (Greg DiBiase, Chair)

4.2 - Council Discussion

4.3 - Next Steps

### Item 5: COUNCIL DISCUSSION - Diacritics in Latin Script and Singular/Plurals (20 minutes)

Several parties raised an issue to the GNSO Council’s attention with regard to the challenge affecting future applied-for strings in the Latin script containing diacritics that may be confusingly similar to ASCII strings, and are non-variants.

For background, an applied-for IDN gTLD string in the Latin script containing diacritics, which is NOT an allocatable variant label of the base ASCII string (existing or applied-for) according to RZ-LGR, are sometimes seen as equivalents. In some instances however, the base ASCII string is seen as a workaround and not necessarily “correct”. The base ASCII string and the Latin diacritic string may be determined to be confusingly similar (i.e., in which case, the strings would be placed in a contention set or if an existing gTLD is involved, the applied-for label would not pass the String Similarity Review).

During the GNSO Council Meeting at ICANN78 in Hamburg on 25 October 2023, the GNSO Council received a detailed briefing on this issue and agreed to request a study from ICANN org to help inform the GNSO Council on the issue of diacritics in Latin Script. Prior to the request being made to ICANN org, the org volunteered to investigate what mechanism or mechanisms might be appropriate to address this issue.

Separately, related to singular/plural strings, the Council was informed that the Board Caucus on SubPro has asked staff to explore possible alternative solutions that achieve the goal of the proposed Topic 24 Supplemental Recommendations. On 16 April 2024, the Council received an email that provided a high-level overview of the proposed approach that seeks to generally achieve the same outcomes that the Topic 24 Supplemental Recommendations are aiming for.

Here, the Council will receive an update from ICANN org on the status of the research and analysis related to Latin diacritics, as well as discuss the high-level overview of the singular/plural compromise.

5.1 - Introduction of Topic (Greg DiBiase, GNSO Chair)

5.2 - Council Discussion

5.3 - Next Steps

### Item 6: COUNCIL VOTE - SubPro Supplemental Recommendations (20 minutes)

In March 2023, the ICANN Board approved the majority of the recommendations contained in the Final Report on the new gTLD Subsequent PDP, but also placed some recommendations into a pending status. The Council convened a small team that worked collaboratively with the ICANN Board to resolve all pending recommendations. While the majority of the pending recommendations were able to be adopted by the ICANN Board, recommendations across six Topics were not adopted by the ICANN Board.

With the primary task of addressing the pending recommendations now complete, the Council tasked the Small Team Plus with an updated assignment form. The Small Team Plus has committed to a work plan to address the recommendations not adopted by the Board. Following that plan, the Small Team agreed to Supplemental Recommendations on five of the six Topics, e.g., Registry Voluntary Commitments / Public Interest Commitments, Applicant Support, Terms and Conditions, String Similarity Evaluations, and Limited Challenge/Appeal Mechanisms. Based on the expected implementation as it relates to the Continued Operations Instrument (COI), the Small Team Plus determined it was unnecessary to develop a Supplemental Recommendation for Topic 22: Registrant Protections. On 1 April, an “Explainer” document was shared with the Council that consolidates all of the Supplemental Recommendations and provides a brief explanation for each of them.

Here, the Council will vote on the SubPro Supplemental Recommendations developed by the Small Team Plus.

6.1 - Presentation of motion (Paul McGrady, Small Team Plus Lead)

6.2 - Council Discussion

6.3 - Council vote (voting threshold: GNSO Supermajority in order to trigger the threshold that “the Board shall adopt the recommendation unless more than two-thirds (2/3) of the Board determines that such policy is not in the interests of the ICANN community or ICANN.”)

### Item 7: COUNCIL DISCUSSION - New gTLD Auction Proceeds Cross Community Working Group - Auction Proceeds (CCWG-AP) - Proposed Update to Recommendation 7 (20 minutes)

The CCWG-AP’s Recommendation 7 sets out limitations on the use of ICANN accountability mechanisms (namely, the Independent Review Process, IRP, and Reconsideration process) to challenge decisions made on individual applications within the Grant Program. The CCWG-AP offered this recommendation to minimize use of the proceeds for purposes other than grants, such as administrative costs or legal fees. The Board has noted it continues to support the CCWG-AP’s goal in making this recommendation.
Recommendation 7 currently provides, “Existing ICANN accountability mechanisms such as IRP or other appeal mechanisms cannot be used to challenge a decision from the Independent Project Applications Evaluation Panel to approve or not approve an application. Applicants not selected should receive further details about where information can be found about the next round of applications as well as any educational materials that may be available to assist applicants. The CCWG recognizes that there will need to be an amendment to the Fundamental Bylaws to eliminate the opportunity to use the Request for Reconsideration and Independent Review Panel to challenge grant decisions.” (emphasis added)

In its 2 March 2024 letter, the Board notes it “has been considering whether there are further ways to meet the community’s broader intention with Recommendation 7. If the phrase ‘from the Independent Project Applications Panel’ is removed from Recommendation 7, many of the Board’s concerns that supported the October 2023 action would be addressed. The Board also notes that removal of that phrase would support what it has always understood to be the intention of the CCWG-AP in making Recommendation 7 - to preserve the auction proceeds for funding projects, not challenges. Therefore, the Board asks for the Chartering Organizations’ support in considering an update to the recommendation. Specifically, the Board asks for each Chartering Organization to the CCWG-AP to approve an update to Recommendation 7 that would remove the phrase ‘from the Independent Project Applications Evaluation Panel’ from the text of the recommendation. If the Chartering Organizations approve this update, the Board believes that there is a path to full implementation of the CCWG-AP’s Recommendation 7, including the ability to apply the restriction to third parties.”

The Board is asking for feedback by 17 May 2024. It may be helpful to consider this requested amendment to Recommendation 7 separately from the public comment on the Proposed Bylaws Updates to Limit Access to Accountability Mechanisms.

Here, the Council will discuss the proposed update to CCWG-AP Recommendation 7.

7.1 - Introduction of Topic (Greg DiBiase, GNSO Chair)
7.2 - Council Discussion
7.3 - Next Steps

**Item 8: COUNCIL DISCUSSION - Review of Action Decision Radar (15 minutes)**

During the GNSO Council’s most recent strategic planning session, the Council discussed the topic of how to be an effective manager of the GNSO’s Policy Development Process (PDP). In recognition of the importance of regularly reviewing the Council’s portfolio of work, the Council agreed to the following action item, “During a session at ICANN79, Council to prepare for a careful review of the work captured in the Program Management Tool (PMT) that will conclude or initiate prior to the next AGM, or continue beyond the next AGM.”

The Council conducted this inaugural review of the Projects List during its *Working Session at ICANN79* on Sunday, 3 March 2024. The review also intended to include an overview of the *Action Decision Radar* (“ADR”); however, due to timing constraints, the Council agreed to review the ADR at an upcoming Council meeting.

The ADR is a tool designed to assist the Council by highlighting imminent decisions or actions that need to be taken by the GNSO Council. The ADR contains a series of range markers, e.g., 0-1 month, 1-3 months, etc., to alert the Council to the timing of the upcoming action or decision.

Here, the Council will review the contents of the ADR and discuss next steps.

8.1 - Introduction of Topic (Greg DiBiase, GNSO Chair) - presentation slides
8.2 - Council Discussion
8.3 - Next Steps

**Item 9: Update on Status of Privacy and Proxy Services Accreditation Implementation (15 minutes)**

The Privacy and Proxy Services Accreditation Issues PDP achieved full consensus on its recommendations and delivered its *Final Report* on 8 December 2015, with subsequent *Council adoption* of the Final Report on 21 January 2016. On 9 August 2016, the ICANN Board adopted all recommendations of the PPSAI PDP, directing ICANN org to begin implementation. After some initial preparatory work, the Implementation Review Team (IRT) first met on 19 October 2016.

Subsequently, as a result of potential conflicts and/or overlap of work between the PPSAI IRT and GDPR-related work, especially the EPDP on the Temporary Specification for gTLD Registration Data, ICANN org, in its letter to the GNSO Council, proposed to delay the implementation of PPSAI until the EPDP completes.

In its *4 March 2019 letter* to GNSO Council leadership, ICANN org posed the following question to the GNSO Council, “whether ICANN org should continue to delay public comment and implementation of PPSAI or take additional steps pending completion of the EPDP in consultation with the PPSAI Implementation Review Team (IRT).” GNSO Council Leadership responded, “given the divergent views among Councilors and considering the respective roles of ICANN Org in leading implementation work of consensus policy recommendations and the PPSAI IRT in overseeing the implementation work, the GNSO Council considers it appropriate to defer the decision on this issue to ICANN org and the PPSAI IRT, taking into account the various views of the SOs and ACs.”

On 2 March 2021, ICANN org delivered the *Wave 1.5 Report* to the GNSO Council, which included a detailed analysis of the extent to which the EPDP Phase 1 recommendations may require modification to the PPSAI and Translation & Transliteration policies, which are in the policy implementation phase. Following review of the Wave 1.5 Report, the Council observed the following in its *1 July 2021 letter*:

- The decision to pause the implementation of the PPSAI and Translation & Transliteration policy recommendations was a decision that was made by ICANN org, not the GNSO Council. As such, the Council is of the view that a decision to restart the implementation activities is not within the remit of the GNSO Council but for ICANN org to make. The Council would also like to point to its letter of February 2019 in which it also...
concluded that “considering the respective roles of ICANN Org in leading implementation work of consensus policy recommendations and the PPSAI IRT in overseeing the implementation work, the GNSO Council considers it appropriate to defer the decision on this issue to ICANN org and the PPSAI IRT, taking into account the various views of the SOs and ACs”.

- Should any policy issues arise during the implementation of these policy recommendations, there are processes and procedures that allow the Council to further consider these, but the Council is of the view that the respective Implementation Review Teams (IRTs) will be best placed to identify such possible issues.
- The Council would also like to point to the letter that was sent to the Council in September 2019 in which it was noted that “following the completion of relevant EPDP work, ICANN org will reassess the existing draft PP materials in consultation with the PPSAI IRT and determine how to proceed with implementation of the Privacy and Proxy Services Accreditation Program”. From a Council’s perspective this still seems a relevant and timely next step.

During its wrap-up session at ICANN79, the GNSO Council appointed two liaisons, Paul McGrady and Stephanie Perrin, to serve as GNSO Council liaisons to the PPSAI IRT.

Here, the Council will receive an update on the recent meeting.

9.1 - Introduction of Topic (Greg DiBiase, GNSO Chair) - presentation slides

9.2 - Council Discussion

9.3 - Next Steps

**Item 10: Any Other Business (10 minutes)**

10.1 - IPC’s RFR decision and Council’s subsequent letter (Damon Ashcraft)

10.2 - Update on ICANN80 planning and GNSO Draft schedule

10.3 - Replacement of Council representative to the Continuous Improvement Program Community Coordination Group (CIP-CCG)

10.4 - Upcoming Sessions/Updates on the Registration Data Request System (RDRS)

- Prep Week Session on RDRS: Wednesday, 29 May at 16:30 UTC
- RDRS Standing Committee Meeting at ICANN80: Monday, 10 June at 10:45 - 12:15 local time (UTC+2)

Appendix 1: GNSO Council Voting Thresholds (ICANN Bylaws, Article 11, Section 11.3(i))

See [https://www.icann.org/resources/pages/governance/bylaws-en/#article11](https://www.icann.org/resources/pages/governance/bylaws-en/#article11).

Appendix 2: GNSO Council Absentee Voting Procedures (GNSO Operating Procedures, Section 4.4)


**References for Coordinated Universal Time of 21:00 UTC**

Local time between March and November in the NORTHERN hemisphere

See [https://www.timeanddate.com/time/change/](https://www.timeanddate.com/time/change/) for Dates for Daylight Saving Time and Clock Changes

California, USA (PDT) UTC-7  14:00
San José, Costa Rica (CST) UTC-6  15:00
New York/Washington DC, USA (EDT) UTC-4  17:00
Buenos Aires, Argentina (ART) UTC-3  18:00
Kinshasa, Democratic Republic of Congo (WAT) UTC+1 22:00
Paris, France (CEST) UTC+2  23:00
Moscow, Russia (MSK) UTC+3  00:00 (Friday)
Singapore (SGT) UTC+8  05:00 (Friday)
Melbourne, Australia (AEST) UTC+10 07:00 (Friday)
For other places see http://www.timeanddate.com and https://tinyurl.com/2xncuymd