

Draft Recommendation 19



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As strategic manager rather than a policy body the GNSO Council should continue to focus on ensuring that a WG has been properly constituted, has thoroughly fulfilled the terms of its charter and has followed due process.

Working Party (initial assessment of feasibility and usefulness):	CG - Accept as is.
Staff (initial assessment of feasibility and usefulness):	<input type="checkbox"/> Accept As-Is <input type="checkbox"/> Accept With modification <input type="checkbox"/> Reject Rationale: MK: accept as-is
Basis for Assessment:	
Work in Progress:	In progress (not clear if the recommendation is implying that this is not happening?)
Expected Completion Date for Work in Progress:	
Milestones:	
Responsibility:	GNSO Council

Public Comments Received

C o m m e n t #	S u b m i t t e d B y	A f f i l i a t i o n	Comment
Recommendation 19 (Participation and Representation): As strategic manager rather than a policy body the GNSO Council should continue to focus on ensuring that a WG has been properly constituted, has thoroughly fulfilled the terms of its charter and has followed due process.			
23	P a u l D i a z	g T L D R e g i s t r i e s S t a k e h o l d e r G r o u p	(Support)

60	O s v a l d o N o v o a	I S P C P	(Support) The ISPCP offers full support. As stated previously, this is exactly what Council was set up to do under the last review, yet Council continues to devote far too much time to the policy itself, rather than managing the process.
2 12	S t e p h a n i e P e r r i n	N C U C / N C S G	This is pure process. The Council also has to examine what comes out the other end.
2 56	G r e g S h a t a n	I P C	(It Depends) We believe the GNSO structure should be reconstituted to avoid capture by the Contracted Parties. A more representative Council should focus as a strategic manager but should independently ensure that WG recommendations are fair and implementable, and deriving from truly representative community input.
2 84	A m r E l s a d r		This recommendation, and the context in which it was developed in the Westlake report is misleading in some ways. First, The GNSO Council is not a legislative body and does not act as such. The GNSO Council does manage the process by which the GNSO develops gTLD policies. However, in this role, the council could on occasion have reason to reject or propose amendments to policy recommendations from PDP WGs. These circumstances may include when consensus is not achieved within the PDP WG, or in the event that there is incomplete representation within the PDP WG's membership involved in the consensus call. In all events, the GNSO council does not make changes to policy recommendations as insinuated by the Westlake report. This might not have been the intent of the report, but the language used to discuss this seems vague. The GNSO operating procedures allow for the the council to propose changes to policy recommendations, which need to be considered by the PDP WG. This is, on occasion, very much be consistent with its management role, and does not indicate any legislative role. In addition, the GNSO Council should always attempt to ensure that gTLD policy is developed through the GNSO process, and not outside of it via board resolutions in response to Advice from ACs, other groups (such as the BRG, which is becoming a repetitively problematic development) or on the ICANN board's own initiative. Developing gTLD policy is the primary function of the GNSO. In the event that gTLD policy recommendations from the GNSO Council to the ICANN board result in conflicting advice from ACs (such as GAC or ALAC), any desire to amend the policy recommendations should be sent back to the GNSO to go through the appropriate process (new processes may become viable options should the board adopt the policy and implementation WG recommendations). This is consistent with the Westlake report's text in section 3.6.1 on page 77 ("As noted above in relation to the GNSO Council, we consider that the role of the Board should not be to re-litigate or amend policy itself, but to articulate its reasons for rejection and refer the policy back to the GNSO PDP WG for re-consideration and re-submission").
3 30	O l i v e r C r e p i n- L e b l o n d	A L A C	(Support) The ALAC supports this recommendation.