

Motions 18 February 2021

Initiation of a Policy Development Process to Review the Transfer Policy

Submitted by: Pam Little

Seconded by: Carlton Samuels

Whereas,

1. The GNSO Council issued a call for volunteers for a Transfer Policy Review Scoping Team on [October 3, 2019](#). The Scoping Team was tasked with providing recommendations on the approach to a potential review and future policy work related to the Transfer Policy; composition of the review team or PDP working group; and scope of the review;
2. The Transfer Policy Review Scoping Team delivered a [Transfer Policy Initial Scoping Paper](#) on April 6, 2020 in which it recommended the GNSO Council instruct ICANN Policy staff to draft a Preliminary Issue Report, outlining, et. , the issues described within the Transfer Policy Initial Scoping Paper;
3. On 24 June 2020 the GNSO Council requested preparation of a Preliminary Issue Report, for delivery as expeditiously as possible, on the issues identified in the [Transfer Policy Initial Scoping Paper](#), to assist in determining whether a PDP or series of PDPs should be initiated regarding changes to the Transfer Policy;
4. On 20 August 2020, the GNSO Council agreed to extend the timeline for delivery of the Issue Report to 10 October 2020;
5. ICANN staff published the [Preliminary Issue Report](#) on a Policy Development Process to Review the Transfer Policy for public comment on 12 October 2020, with the public comment forum closing on 30 November 2020;
6. ICANN staff have reviewed the [public comments](#) received, published a [Report of Public Comments](#) on 14 December 2020 and updated the Issue Report accordingly;
7. The [Final Issue Report](#) on a Policy Development Process to Review the Transfer Policy was delivered to the GNSO Council on 12 January 2021;
8. The Final Issue Report includes a recommendation that the GNSO Council proceed with a two-phased Policy Development Process (PDP) that will address the following topic areas in sequence:
 - Phase 1(a): Form of Authorization (including Rec. 27, Wave 1 FOA issues) and AuthInfo Codes
 - Phase 1(b): Change of Registrant (including Rec. 27, Wave 1 Change of Registrant issues)
 - Phase 2: Transfer Emergency Action Contact and reversing inter-registrar transfers, Transfer Dispute Resolution Policy (including Rec. 27, Wave 1 TDRP issues), NACKing transfers, ICANN-approved transfers
9. The General Counsel of ICANN has indicated that the topics recommended for review are properly within the scope of the ICANN policy process and the GNSO.

RESOLVED:

1. The GNSO Council hereby initiates a two-phased PDP to Review the Transfer Policy which will determine if changes to the policy are needed to improve the ease, security, and efficacy of inter-registrar and inter-registrant transfers.
2. The GNSO Council requests that the PDP Working Group be convened as soon as possible after the adoption of the PDP Working Group Charter in order to fulfill the requirements of this PDP.

Adoption of the Policy Development Process on New gTLD Subsequent Procedures Final Report

Submitted by: Flip Petillion

Seconded by: Kurt Pritz

WHEREAS

1. On 17 December 2015 the GNSO Council resolved to [initiate](#) a PDP to consider and analyze issues discussed in the Final Issue Report on New gTLD Subsequent Procedures (SubPro PDP) to determine whether changes or adjustments to the existing policy recommendations in the Final Report on the Introduction of New Generic Top-Level Domains from 08 August 2007 are needed.
2. On 21 January 2016 the GNSO Council [approved](#) the Charter for the SubPro PDP and directed ICANN staff to issue a call for volunteers for the SubPro PDP Working Group.
3. After initiating a call for community comment in June of 2016 (Community Comment 1), the SubPro PDP divided its work into four Work Tracks culminating in a second call for community comment (Community Comment 2) in March of 2017, that provided an insight into the work of each of the initial four Work Tracks, and asked a series of questions of the community for further consideration.

4. In November of 2017, a fifth Work Track (WT5) was created solely for the purpose of examining the issues related to Geographic Names as the Top Level. In recognition of the broad interest in the topic and to encourage participation from the ICANN community, it was set up to include four WT5 leaders, one each from the GNSO, ccNSO, GAC and At-Large.
5. The SubPro PDP has followed the prescribed PDP steps as stated in the Bylaws, including the publication of the following Reports for public comment:
 - a. an [Initial Report](#) on 08 July 2018 for public comment.
 - b. a [Supplemental Initial Report](#) on 30 October 2018, covering certain issues not included in the Initial Report.
 - c. a [Supplemental Initial Report](#) on Geographic Names at the Top Level on 5 December 2018.
 - d. a [Draft Final Report](#) on 20 August 2020.
6. On 18 January 2021, the SubPro PDP Working Group submitted its Final Report to the Council for its consideration.
7. On 21 January 2021, the GNSO Council received a high-level briefing of the Final Report by the GNSO Council Liaison to the SubPro PDP Working Group.
8. On 28 January 2021, the GNSO Council Liaison to the SubPro PDP Working Group and its Co-Chairs held a webinar, directed at the GNSO Council, to discuss the Final Report's 41 Topics, which included hundreds of Affirmations, Recommendations and Implementation Guidance (Collectively referred to as "Outputs") in more detail.
9. Each of the Outputs in the following topics obtained a Full Consensus designation (Topics 1, 5, 6, 7, 8, 10, 11, 13, 14, 16, 19, 20, 22, 23, 25, 26, 28, 31, 32, 33, 36, 37, 38, 39, and 40).
10. Each of the following topics received an overall designation of Consensus, with all of the Outputs obtaining at least a Consensus designation (Topics 2, 3, 4, 9, 12, 15, 17, 18, 21, 24, 27, 29, 30, 34, and 41).
11. One Topic obtained a Strong Support but Significant Opposition designation (#35); However, within that one Topic, three of the five Outputs obtained a Consensus designation, and two of the five Outputs, Recommendations 35.2 and 35.4, obtained the designation Strong Support but Significant Opposition.
12. While not seeking to affirm that the status quo prevails in any particular instance, the GNSO Council notes that the Working Group operated under the assumption that, in the event the Working Group was unable to reach consensus in recommending an alternate course of action, the "status quo" should remain in place as a default position, with the status quo consisting of the 2007 policy, the final Applicant Guidebook, and any implementation elements that were put into practice in the 2012 application round.
13. The GNSO Council notes that Topic 23: Closed Generics was identified as an Output category of **No Agreement**, which did achieve Full Consensus. However, the GNSO Council believes No Agreement is functionally equivalent to the designation of Divergence as detailed in the GNSO Working Group Guidelines, meaning that the Working Group was unable to reach consensus in recommending an alternate course of action. The GNSO Council further notes that especially as it relates to Topic 23: Closed Generics, there were diverging interpretations within the Working Group of what constitutes the "status quo".
14. Given the large number of topics and the interdependency of many of the subjects, the SubPro PDP Working Group recommends that all Outputs be considered as one package by the GNSO Council and subsequently the ICANN Board, notwithstanding any Outputs that did not achieve Consensus or Full Consensus.

RESOLVED

1. The GNSO Council approves, and recommends that the ICANN Board adopt, the Affirmations, Recommendations, and Implementation Guidance (Collectively referred to as "Outputs") that were determined to have received either Full Consensus or Consensus designations as documented in the SubPro PDP Working Group's Final Report
2. Recognizing that nearly a decade has passed since the opening of the 2012 round of new gTLDs, the GNSO Council requests that the ICANN Board consider and direct the implementation of the Outputs adopted by the GNSO Council without waiting for any other proposed or ongoing policy work unspecific to New gTLD Subsequent Procedures to conclude, while acknowledging the importance of such work.
3. Further, the GNSO Council requests that the ICANN Board initiate an Operational Design Phase on the Final Report of the SubPro Working Group and its Outputs as soon as possible, to perform an assessment of GNSO Council recommendations in order to provide the Board with relevant operational information to facilitate the Board's determination, in accordance with the Bylaws, on the impact of the operational impact of the implementation of the recommendations, including whether the recommendations are in the best interests of the ICANN community or ICANN.
4. [The GNSO Council requests that ICANN org convene an Implementation Review Team \(IRT\)](#) to work on the implementation of these Outputs. The Implementation Review Team will be tasked with assisting ICANN org in developing the implementation details for the New gTLD Program, evaluating the proposed implementation of the Outputs as approved by the Board, and working with ICANN staff to ensure that the resultant implementation conforms to the intent of the approved Outputs. The Implementation Review Team shall operate in accordance with the Implementation Review Team Principles and Guidance approved by the GNSO Council in June 2015.
5. The GNSO Council extends its sincere appreciation to the Co-Chairs, Cheryl Langdon-Orr and Jeffrey Neuman, as well as past Co-Chair Avri Doria, the SubPro PDP Work Track leaders, the SubPro Working Group members and support staff of the SubPro PDP for their tireless efforts these past five years to deliver this Final Report.