

Motions 1 December 2016

1. MOTION – Acceptance of the Report from the GNSO Bylaws Implementation Drafting Team - as amended

(Motion deferred to 7 November 2016 from 13 October 2016 - deferred to 1 December 2016)

Made by: James Bladel

Seconded by: Rubens Kuhl

WHEREAS:

1. On 30 June 2016 the GNSO Council approved the creation of a Drafting Team (DT) that was to work with ICANN staff to “fully identify all the new or additional rights and responsibilities that the GNSO has under the revised Bylaws, including but not limited to participation of the GNSO within the Empowered Community, and to develop new or modified structures and procedures (as necessary) to fully implement these new or additional rights and responsibilities”;
2. In creating the DT, the GNSO Council requested that the DT provide the GNSO Council with an implementation plan “which will have the consensus of the Drafting Team, including any recommendations for needed further changes to ICANN Bylaws and/or GNSO Operating Procedures to enable effective GNSO participation in ICANN activities under the revised ICANN Bylaws, not later than 30 September 2016”;
3. During the course of the DT’s work, differing views were expressed on the role of the GNSO Council in the Empowered Community, leading to the production of a Final Report, which included a minority report on the role of the GNSO Council; and
4. The DT submitted its Final Report to the GNSO Council on 12 October 2016 (<https://gns0.icann.org/en/drafts/bylaws-drafting-team-final-report-12oct16-en.pdf>). The GNSO Council has reviewed the DT’s report.

RESOLVED:

1. The GNSO Council accepts the recommendations in the DT’s Final Report as submitted.
2. The GNSO Council directs ICANN Policy Staff to draft proposed language for any necessary modifications or additions to the GNSO Operating Procedures and, if applicable, those parts of the ICANN Bylaws pertaining to the GNSO. The GNSO Council requests that ICANN Legal evaluate whether the proposed modifications are consistent with the post-transition Bylaws and report their findings to the GNSO Council.
3. The GNSO Council requests that members of the DT make themselves available for consultation by ICANN Policy Staff as needed.
4. The GNSO Council directs ICANN Policy Staff to post the DT Final Report, including the minority report, and all proposed modifications or new procedures for public comment for no less than 40 days. The GNSO Council expects that any comments received will be given meaningful consideration.
5. As resolved previously, the GNSO Council intends to subject the adoption of the proposed modifications to existing procedures and/or ICANN Bylaws to a GNSO Supermajority vote. 6. The GNSO Council thanks the DT for its collaborative effort, especially in view the limited time frame available to the DT.

2. Adoption of the GNSO Review of GAC Communiqué for submission to the ICANN Board

Made by: Paul McGrady

Seconded by:

Whereas,

1. The Governmental Advisory Committee advises the ICANN Board on issues of public policy, and especially where there may be an interaction between ICANN’s activities or policies and national laws or international agreements. It usually does so as part of a Communiqué, which is published towards the end of every ICANN meeting.
2. The GNSO is responsible for developing and recommending to the ICANN Board substantive policies relating to generic top-level domains.

3. The GNSO has expressed a desire to provide feedback to the ICANN Board on issues in the GAC Communiqué as these relate to generic top-level domains to inform the ICANN Board as well as the broader community of past, present or future gTLD policy activities that may directly or indirectly relate to advice provided by the GAC.
4. The GNSO hopes that the input provided through its review of the GAC Communiqué will further enhance the co-ordination and promote the sharing of information on gTLD related policy activities between the GAC, Board and the GNSO.

Resolved,

1. The GNSO Council adopts the GNSO Review of the Hyderabad GAC Communiqué (see [include link]) and requests that the GNSO Council Chair communicate the GNSO Review of the Hyderabad GAC Communiqué to the ICANN Board.
2. Following the communication to the ICANN Board, the GNSO Council requests that the GNSO Council Chair informs the GAC Chair as well as the GAC-GNSO Consultation Group of the communication between the GNSO Council and the ICANN Board.

3. Motion – GNSO Council Communication to ICANN Board Regarding Transfer Policy

Made by: Darcy Southwell

Seconded by:

WHEREAS,

The GNSO Council adopted the IRTP Part C PDP recommendations on 17 October 2012 and recommended convening an IRTP Part C Implementation Review Team to assist ICANN Staff in developing the implementation details for the new policy should it be approved by the ICANN Board (see <https://gns0.icann.org/en/council/resolutions#20121017-4>).

The ICANN Board adopted the IRTP Part C PDP recommendations on 20 December 2012 and instructed the ICANN CEO to develop and complete an implementation plan for these Recommendations and continue communication with the community on such work (see <https://www.icann.org/resources/board-material/prelim-report-2012-12-20-en#2.a>).

ICANN Staff worked in consultation with the GNSO Implementation Review Team, which was formed as directed by the GNSO Council to work with ICANN, to ensure that the resultant implementation fulfills the intentions of the approved policy recommendations. The draft policy went through [public comment](#) on 30 March 2015.

ICANN announced the implementation of amendments to the Transfer Policy and the Transfer Dispute Resolution Policy (TDRP) on 1 June 2016 with the new requirements taking effect beginning on 1 December 2016.

Members of the Registrar Stakeholder Group identified potential issues with the implementation in relation to privacy/proxy registrations and raised these with ICANN Staff. Staff subsequently recommended that these should be discussed with the GNSO community.

On 31 October 2016, the GNSO Council received a letter from Graeme Bunton, Chair of the Registrar Stakeholder Group, seeking advice regarding implementation challenges related to the Transfer Policy (see <https://www.icann.org/resources/pages/transfer-policy-2016-06-01-en>) and its implication on privacy/proxy services.

On 4 November 2016 at ICANN57, the GNSO discussed the Registrar Stakeholder Group's challenges with GDD Staff during which it was suggested that the recommended course of action was for the GNSO Council to write to the Board and request the Board to direct staff to remove the privacy/proxy services aspect from the Transfer Policy and to instead place them for evaluation and recommendation by the newly formed Privacy Proxy Services Accreditation Issues Implementation Review Team.

The GNSO Council has synthesized the positions received and prepared a letter to the ICANN Board (see [include link]).

RESOLVED,

The GNSO Council approves the letter (see [include link]) and instructs the GNSO Secretariat to transmit this letter to the ICANN Board as soon as possible.

4. Motion – Adoption of GNSO Review Working Group Implementation Plan

Made by: Wolf-Ulrich Knoben

Seconded by: Rafik Dammak

WHEREAS,

1. The second independent review of the GNSO commenced in 2014.

2. The Final Report of the independent examiner was published on 15 September 2015 (see <https://www.icann.org/en/system/files/files/gnsso-review-final-15sep15-en.pdf>) and contained 36 recommendations in the areas of: participation & representation, continuous development, transparency and alignment with ICANN's future.
3. The GNSO Council adopted the GNSO Review Recommendations Feasibility and Prioritization analysis (see: <http://gnsso.icann.org/en/drafts/review-feasibility-prioritization-25feb16-en.pdf>) on 14 April 2016 with the modification of Recommendation 21, that the council recommends staff working with the GNSO to institute methods of information sharing of highly relevant research related to gTLDs to help the GNSO community members increase their knowledge base (low priority).
4. On 25 June, the ICANN Board accepted the Final Report from the independent examiner, taking into account the GNSO Working Party's Feasibility and Prioritization Analysis of the GNSO Review Recommendations, adopted with modifications by the GNSO Council, the Board adopts thirty-four (34) recommendations of the Final Report (i.e. all recommendations excluding recommendations 23 and 32).
5. Furthermore, the Board requested that the GNSO Council convene a group that oversees the implementation of Board-accepted recommendations. An implementation plan, containing a realistic timeline for the implementation, definition of desired outcomes and a way to measure current state as well as progress toward the desired outcome, shall be submitted to the Board as soon as possible, but no later than six (6) months after the adoption of this resolution.
6. The GNSO Council requested that ICANN policy staff prepare a discussion paper that outlines the possible options for dealing with the implementation of the GNSO Review recommendations following adoption by the ICANN Board taking into account the past implementation of the GNSO Review as well as existing mechanisms such as the SCI, the GNSO Review Working Party and other applicable best practices and lessons learned from past reviews. This discussion paper was submitted to the GNSO Council on 20 June 2016 (see <http://gnsso.icann.org/en/drafts/review-implementation-recommendations-discussion-paper-20jun16-en.pdf>).
7. The GNSO Council reviewed and discussed next steps during the ICANN meeting in Helsinki where it was proposed to repurpose the SCI as a Working Group to develop the requested implementation plan as outlined in the staff discussion paper.
8. On 21 July 2016 the GNSO Council approved a [motion](#) to adopt the [charter](#) for the GNSO Review Working Group and directed the Working Group to submit the proposed implementation plan to the GNSO Council for approval at the latest by the ICANN57.

RESOLVED

1. The GNSO Council adopts the [implementation plan](#).
2. The GNSO Council directs staff to submit the implementation plan to the ICANN Board for its consideration.
3. Following approval of the implementation plan by the ICANN Board of Directors, the GNSO Council directs the GNSO Review Working Group to execute and oversee the implementation of the recommendations as specified in the implementation plan, and to provide the GNSO Council with regular status updates (at a minimum prior to every ICANN meeting) on the status of implementation, including an overview for which recommendations implementation is considered complete. As part of this status update, the GNSO Review Working Group should also identify any questions and/or concerns that may have arisen during the implementation that would require further guidance.