Minutes of the GNSO Council Meeting 12 June 2018

Agenda and **Documents**

Coordinated Universal Time: 12:00 UTC: **https://tinyurl.com/yb9ydjth [tinyurl.com]**

05:00 Los Angeles; 08:00 Washington; 13:00 London; 17:00 Islamabad; 21:00 Tokyo; 22:00 Hobart
The meeting started at: 12:01 UTC

List of attendees:
Nominating Committee Appointee (NCA): **– Non-Voting** – Erika Mann
Contracted Parties House
Registrar Stakeholder Group: Pam Little, Michele Neylon, Darcy Southwell
gTLD Registries Stakeholder Group: Donna Austin, Keith Drazek, Rubens Kühl
Nominating Committee Appointee (NCA): Carlos Raul Gutierrez (joined but in case of poor audio, proxy to Michele Neylon)
Non-Contracted Parties House
Commercial Stakeholder Group (CSG): Marie Pattullo (apologies – proxy to Susan Kawaguchi), Susan Kawaguchi, Philippe Fouquart, Tony Harris (audio only), Paul McGrady, Heather Forrest
Non-Commercial Stakeholder Group (NCSG): Martin Silva Valent, Stephanie Perrin, Tatiana Tropina (joined late – if needed proxy to Rafik Dammak), Rafik Dammak, Ayden Férdeline, Arsène Tungali (apology – proxy to Martin Silva Valent)
Nominating Committee Appointee (NCA): Syed Ismail Shah
GNSO Council Liaisons/Observers:
Cheryl Langdon-Orr– ALAC Liaison
Julf (Johan) Helsingius– GNSO liaison to the GAC
Adebiyi Oladipo – ccNSO observer

ICANN Staff
David Olive -Senior Vice President, Policy Development Support and Managing Manager, ICANN Regional
Marika Konings – Vice President, Policy Development Support – GNSO
Mary Wong – Sr Director, Special Adviser for Strategic Policy Planning
Julie Hedlund – Policy Director
Steve Chan – Policy Director
Berry Cobb – Policy Consultant
Emily Barabas – Policy Support Senior Specialist
Ariel Liang – Policy Analyst
Caitlin Tubergen – Policy Senior Manager
Mike Brennan – Technical Support
Nathalie Peregrine – Manager, Operations Support
Terri Agnew - Operations Support - GNSO Lead Administrator

MP3 Recording
Transcript

Item 1: Administrative matters

1.1 – Roll call

Carlos Gutierrez sent his apologies and assigned his proxy to Michele Neylon. Arsène Tungali sent his apologies and assigned his proxy to Martin Silva Valent. Marie Pattullo sent her apologies and assigned her proxy to Susan Kawaguchi. Tatiana Tropina sent her apologies and assigned her proxy to Rafik Dammak.

1.2 – Updates to Statements of Interest.

There were no updates to Statements of Interest.

1.3 – Review/amend agenda

The agenda was accepted without changes.

1.4 – Opening remarks

Heather Forrest thanked councilors for attending this extraordinary GNSO Council meeting and reminded them that the sole purpose of the session was to discuss next steps in regard to the Board adoption of the Temporary Specification. Heather Forrest welcomed Adebiyi Oladipo in his role as ccNSO observer to the GNSO Council.

Item 2. COUNCIL DISCUSSION – Next steps following adoption of ICANN Board Temporary Specification

David Olive, on behalf of ICANN Board Chair, Cherine Chalaby, sent responses to the questions asked by the GNSO Council during the meeting with ICANN Board on 5 June 2018, regarding next steps following the Board's adoption of the Temporary Specification.

Councilors then discussed the responses received on the topic of Scope:

Question (5) *The Temporary Specification reasoning for including WHOIS as a security and stability issue is based on the new ICANN Bylaws; at time of contract signing, that wasn't the case. Doesn't that open a possible avenue to challenge it altogether? Wouldn't phasing the EPDP allowing a quick Consensus Policy made of uncontroversial parts of the Temp Spec increase the assurances that this wouldn't hamper ICANN Org's compliance ability?*

ICANN Board had not yet had time to respond to this question.
Rubens Kühl raised that clarification was needed regarding the status of the Temporary Specification at the time of contracting as well as regarding the challenging of the Temporary Specification. It was also noted that a response was also expected from the Board on the question of implications for the picket fence.
It was decided to send these points back to the Board before they responded to question (5).

Question (8) *The Temporary Specification covers a number of additional policies that go beyond the requirements of the RA and RAA as they relate to Registration Data Directory Services. How does the Board believe the GNSO Council should handle these areas of overlap?*
ICANN Board response: *"The GNSO Council may want to consider taking the same approach that it currently uses in policy development processes for considering existing consensus policies that may be impacted by a proposed new consensus policy. However, the Board and ICANN Org stand ready to work with the GNSO Council on these issues as needed and if/when they arise."*

On this point, given that the Board response reflected what was agreed on the joint call held on 5 June 2018, no further discussion was needed at this time.

Question (9) *Does ICANN have/will ICANN develop a list of policies and contractual clauses that are impacted by the temporary specification (beyond what is currently identified in the Annex)? This would help with scoping the work.*
ICANN Board response: *"ICANN Org is preparing a document that will show which areas of the existing agreements and consensus policies are changed as a result of the GDPR. It is expected that this document will be shared with the GNSO Council prior to its meeting."*

The aforementioned [document](#) was also received and [circulated](#) to the GNSO Council mailing list. Given the timing only a few councilors had an opportunity to review ahead of the call. Pam Little sent an annotated version to the list and this was discussed on the call by councilors (last item on [Documents page](#)).
Pam Little presented her edits to the document highlighting that there were additional requirements which would impact the existing agreement and policies.
Heather Forrest clarified that this document was a starting point and that councilors were welcome to send their feedback to staff who would then share it.
Keith Drazek mentioned that within the Contracted Party House (CPH), a subteam had been working on the General Data Protection Regulation (GDPR) and that they had received the mapping document.
Paul McGrady asked for further clarity regarding the status of the document provided by the Board and what's the level of diligence we should apply the the document.
Several councilors agreed that the document would be helpful in determining the scope of the ePDP, which will in tu assist with the chartering effort. Councilors were encouraged to provide feedback on the document to the Council mailing list and share it with their respective groups.

Question (11) *How does the Board expect the EPDP to follow and/or to incorporate ICANN´s ongoing legal strategy and the decisions of EU country courts?*
ICANN Board response: "*Ongoing discussions and pending court cases could have an impact on issues such as these, but the PDP on the temporary specification is not expected to deliberate on these issues, unless these are reflected in modifications that are made by the ICANN Board to the temporary specification."*

Councilors noted that while the Board response was reasonable, if the Board becomes aware that they will be making changes to the Temporary Specification they should inform the ePDP WG as soon as possible. Any changes would negatively impact the ability of the Expedited Policy Development Process (EPDP) to conclude its work on time.
Michele Neylon suggested that any possible changes to the Temporary Specification be communicated rapidly to the EPDP, without waiting for a formal update to the document. This was supported by several councilors. **Heather Forrest** suggested that this would be the role of the EPDP Board Liaison, whilst **Paul McGrady** requested that the EPDP ask for information directly rather than wait for it to be provided.

The last question concerned participation:

Question (3) *What is the Board's expectation with regard to the Council's ongoing communication with Board/involvement of Board during the scoping process? (In particular here the notes reflect our discussion on the need for instant two-way consultation between the Board and the GNSO Council. As follow-up questions, it would be helpful if the Board could consider its ability and willingness to appoint a*

liaison to the EPDP to facilitate this communication on ongoing basis, and further reflect on the role of the Board once the PDP is established and working.)
ICANN Board response: *"As suggested during the meeting, if welcomed by the GNSO Council, the Board would be more than happy to appoint one or two liaisons to the PDP Team to facilitate communication on an ongoing basis."*

Heather Forrest noted that whilst receiving confirmation of a formal liaison role between the EPDP and ICANN Board was helpful, there had been no mention of the role of the Government Advisory Committee (GAC).

Councilors continued the discussion based on a [mind map](#) outlining the progress made to date on next steps regarding the Temporary Specification.
Councilors agreed that, to the extent that there were time restrictions, there seemed to be no other viable alternative to an EPDP structure. On behalf of the Intellectual Property Constituency (IPC) **Paul McGrady** urged Council to proceed with the EPDP with urgency. **Donna Austin** mentioned that the CPH is in agreement that the EPDP is the path forward, and noted that the CPH had also discussedwhether, in the event that that more than one PDP was required, they should be on the same timetable. .
In response to a question from Paul McGrady, about providing feedback on the mindmap,Heather Forrest suggested that input could be provided during the Initiation Request and Charter drafting process.

Councilors then discussed the draft EPDP timeline (at the bottom of the [document](#)) and noted that the deadline for preparatory questions, working on the scoping and charter, the initiation request and the charter was the GNSO Council meeting, 27th June 2018. There were concerns however that adjustments needed to be made to the timeline regarding future deadlines.

Councilors supported the notion that the Council's agreement in principle to an EPDP be communicated to the ICANN Board and that we're moving onto the next steps of developing and Initiation Request and Charter.

The GNSO Council then discussed the potential composition of both the team drafting the Initiation Request and the Charter (drafting team), and of the EPDP team (EPDP team).
Donna Austin stated that the GNSO Registry Stakeholder Group (RySG) agreed that the EPDP be constituted of councilors only, allowing input from non-councilors. **Donna Austin** specified that liaisons might not be included but she would take this back to the RySG.
Several councilors supported the idea that the drafting team be composed of councilors only.
Regarding gathering input from non-councilors, **Michele Neylon** mentioned that to that aim, there were internal, topic-specific mailing lists within the Registrar Stakeholder Group.

In response to a question about how to capture input that wouldn't come through Councilors, the Council discussed the possibility of repurposing sessions in Panama, ICANN62, to allow for community participation. It was suggested to rename the 09:00 - 15:00 EST sessions on Tuesday 27 June, "GNSO EPDP on Temporary Specification for gTLD Registration Data - Initiation Request and Charter DT meeting" and to change the first slot (09:00 - 10:15) from a closed session to an open one.
Paul McGrady noted that these sessions would conflict with both an IPC closed and an IPC open meeting. **Donna Austin** noted that other Supporting Organizations (SOs) and Advisory Committees (ACs) would also have meetings scheduled at the time, so the EPDP sessions would need to be flexible to accommodate input.

It was suggested approaching the Commercial Business Users Constituency (BC) and the IPC to understand whether one of the GDPR related High Interest Sessions Tuesday afternoon could also be repurposed for community input.

Councilors agreed to hold a call the following week with the aim of discussing Initiation Request and Charter drafting.

The next items discussed covered the EPDP team composition and knowledge requirements. **Michele Neylon** mentioned that these had already been heavily discussed in the CPH. **Martin Silva Valent** suggested the need for an IAPP (International Association of Privacy Professionals) certification to bring all councilors up to date with GDPR knowledge requisites.

Stephanie Perrin added the need to better understand what is in or out of the picket fence before starting EPDP work, to avoid issues at a later point. A follow up to the Board asking for clarification was supported by several councilors.

Paul McGrady expressed concern at the exclusion factor having a certification as prerequisite might entail and suggested he collaborate with ICANN org or other councilors in providing a training course.

Ayden Férdeline stated that having a third party provide training would ensure neutrality.

No agreement was reached regarding EPDP team composition or knowledge requirements during the call and it was agreed to take this discussion to the mailing list, and that councilors would start providing input on team composition as well as on the Initiation Request and Charter drafts staff would circulate shortly after the call.

Action items:

- *Council Leadership* to communicate above outcome to the ICANN Board
- *Council* to begin some initial EPDP processes (e.g., initiation, charter drafting).
- *Councilors* to share feedback on Temporary Specification mapping document on Council mailing list.
- *Council Leadership* to follow up with the ICANN Board regarding its question 5 in this document: **https://gnso.icann.org/sites/default/files/file/field-file-attach/olive-to-forrest-12jun18-en.pdf**
- *Council Leadership* to investigate whether the IPC and/or BC might be open to allowing the Council to drive one of the group's Cross-Community sessions.
- *ICANN Staff* to update ICANN62 schedule placeholders to reflect EPDP charter drafting/initiation. Also, change the closed Tuesday 09:00-10:15 session to an open one.
- *ICANN Staff* to circulate draft of EPDP initiation request and draft charter
- *ICANN Staff* to circulate Doodle poll to allow for Councilors to meet and discuss the EPDP initiation/charter drafting prior to ICANN62; subsequently, schedule meeting. [
- *Council Leadership* to follow up with the ICANN Board/ICANN Org to have them designate what they feel is within the picket fence for the Temporary Specification.

Heather Forrest, GNSO Council Chair, adjourned the GNSO Council meeting at 14:02 UTC Tuesday 12 June 2018.

The next GNSO Council Meeting will take place is scheduled for the 27 June 2018 at 13:00 local time in Panama (18:00 UTC).

For other places see: https://tinyurl.com/ycdbsh8u