Pre-ICANN62 GNSO Policy Webinar

18 June 2018

Agenda

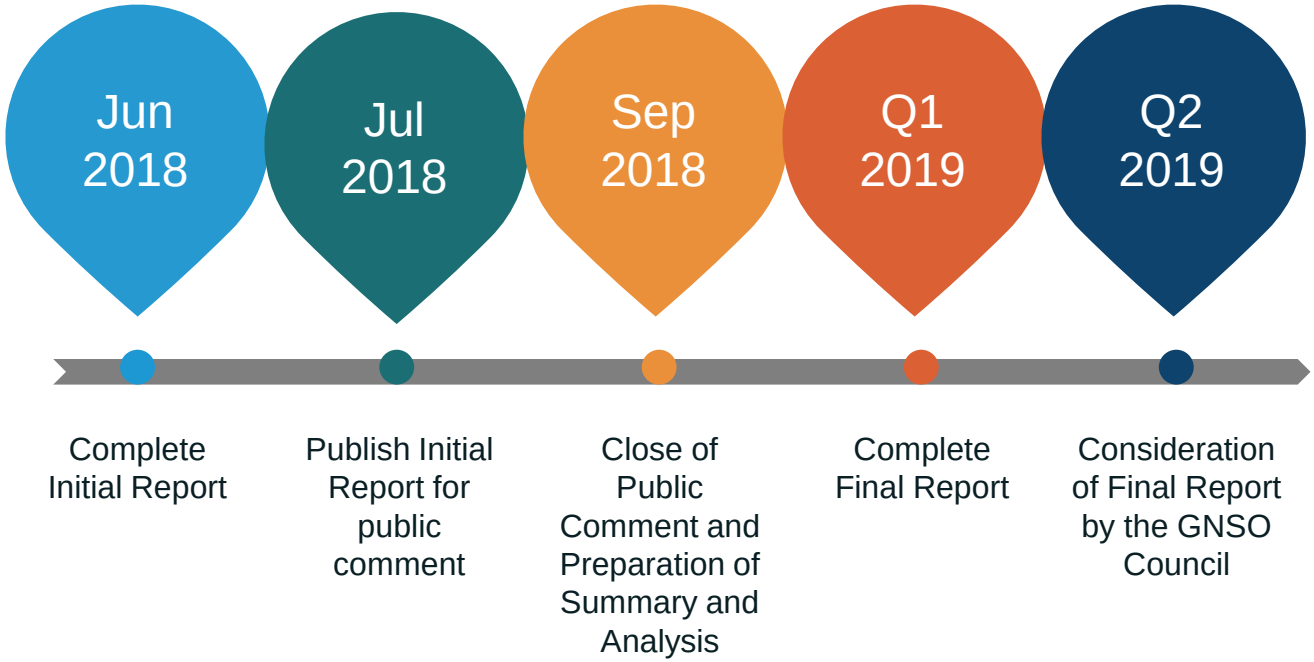
1. Welcome and Introduction
2. New gTLD Subsequent Procedures PDP
3. Review of All Rights Protection Mechanisms in All gTLDs PDP
4. Curative Rights Protections for IGO/INGOs PDP
5. Temporary Specification for gTLD Registration Data (e)PDP
6. Questions & Answers

Introduction

New gTLD Subsequent Procedures GNSO PDP

Subsequent Procedures PDP Timeline

Work Tracks: Overarching & 1 – 4*



Next Steps

What This Project is About

Considering the 2012 round of the New gTLD Program and determining what changes need to be made to the original 2007 GNSO policy recommendations, as well what new policy recommendations may be needed.

* Work Track 5 will aim for an Initial Report to be published in August 2018

What are the current challenges and issues?

- The WG has 30+ subjects within its charter and organized its work into four Work Tracks (WTs) to address in a timely manner..
  - Preliminary deliberations completed
  - Just completing Initial Report, which will be published for public comment
  - Work Track 5, on geographic names at the top-level, is running on a separate schedule

- Biggest Issues:
  - Fair amount of work remains to solidify the recommendations, options in Initial Report
  - Parallel work within the community on topics in scope of this PDP (e.g., applicant support, community applications, etc.)
  - Interconnected efforts (e.g., RPMs, CCT-RT, etc.) can make it difficult to stay coordinated, informed, and timely. Not always clear how efforts are specifically linked/dependent

How can the Council and community assist?

- Help ensure that the SG/Cs contribute to the Initial Report
- Help determine the level of dependency with RPMs, CCT-RT, IGO/INGO, etc. with SubPro. For instance, can SubPro complete before certain efforts?
- Consider how implementation steps can be streamlined

Sessions at ICANN62 and Further Information

Meetings

SubPro Working Sessions on Monday, 25 June (09:00-10:15 and 10:30-12:00) and Thursday, 28 June (13:30-15:00)

WT5 Cross Community working sessions on Monday, 25 June (15:15-16:45) and Thursday, 28 June (15:15-16:45)

Resources

- GNSO Project Page: https://gnso.icann.org/en/group-activities/active/new-gtld-subsequent-procedures
- WG Wiki: https://community.icann.org/x/RgV1Aw
- WG Charter: https://gnso.icann.org/en/issues/new-gtlds/subsequent-procedures-charter-21jan16-en.pdf
- WG Work Plan: https://community.icann.org/x/NAp1Aw

Questions

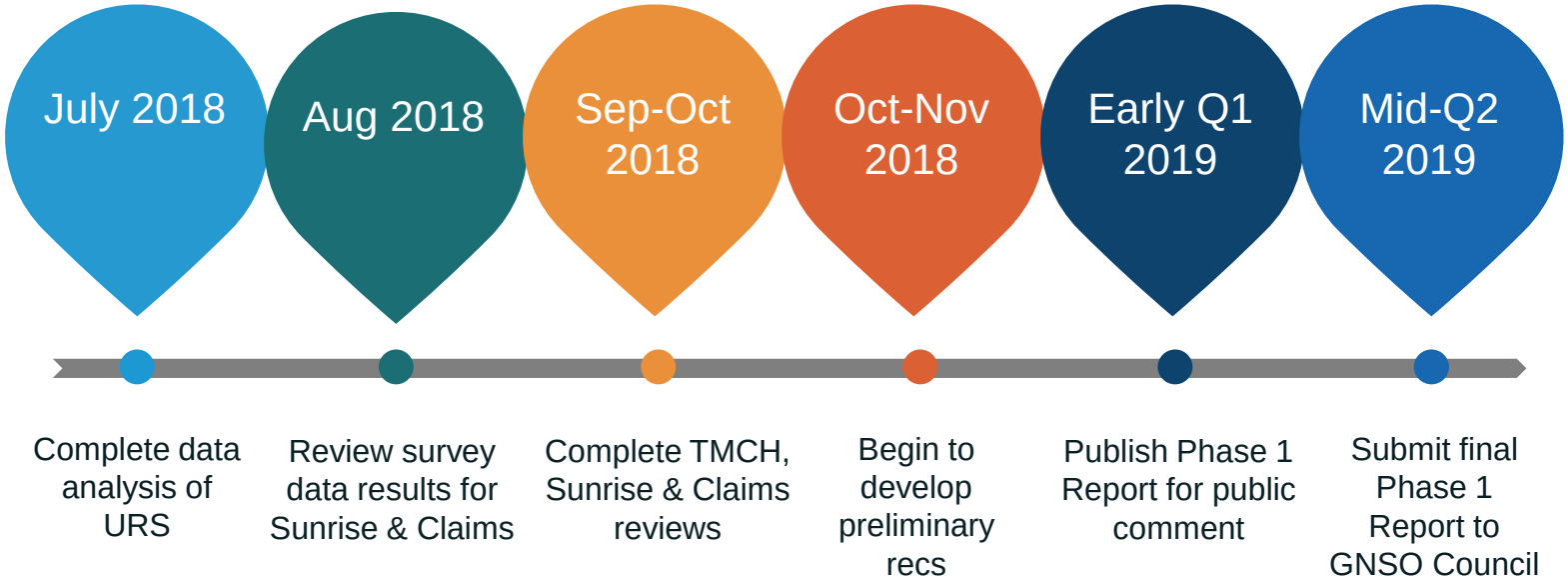
Review of all Rights Protection Mechanisms (RPMs) in All Generic Top-Level Domains (gTLDs) PDP

What is this project about?

Phase I: RPMs applicable to gTLDs launched under the 2012 New gTLD Program

- Trademark Post-Delegation Dispute Resolution Procedure (TM-PDDRP)
- Trademark Clearinghouse (TMCH), Sunrise and Trademark Claims services offered through the TMCH
- Uniform Rapid Suspension (URS) dispute resolution procedure

Phase II: Uniform Dispute Resolution Policy (UDRP)



What are the current challenges and issues?

- Completed an initial review of much of the **TMCH structure and scope**
  - But remaining issues not yet discussed or resolved
- Launched an extensive data collection exercise to evaluate **Sunrise and Trademark Claims services**
  - Collaborating with Analysis Group to finalize survey questions
  - Aiming to launch the surveys shortly after ICANN62
  - Survey results anticipated to be available in 2018 Q3
  - Timeline is tight to complete this work
- Reviewing the **URS dispute resolution procedure**
  - Reviewing survey responses from URS providers & URS practitioners
  - Aiming to complete an initial URS review at or around ICANN62
  - Taking more time than may have been originally anticipated
- Examining certain categories of **URS cases**
  - Analyzing various data points, e.g., domain(s) at issue, parties, responses, panelist(s), outcomes
  - Working Group will need to determine what (if any) policy changes are needed

What are the current challenges and issues?

- Project workload & dealing with volume of data being collected
- Tight timeframes & short turnaround times
- Time required to aggregate, process & analyze data
- Survey fatigue & ability to generate reasonably sufficient results
- Difficulty in distilling large amount of data into useful information
- Friction between members on issues where strong views are held
- Volunteer fatigue & competing priorities

How can the Council and community assist?

Join the WG if you have expertise on the topic

- Participate in a Sub Team to assist specific efforts

Newcomers are expected to catch up on the discussions to date and to not reopen previously closed topics, unless new information is presented

Take & promote the Sunrise & Claims surveys

Help coordinate RPM work & timeline with other related efforts

- New gTLD Subsequent Procedures PDP
- Competition, Consumer Choice, and Consumer Trust Review

Participate in Public Comment

- WG aiming to publish Phase I Initial Report in early 2019

What to expect at ICANN62

Three open meetings to discuss the responses to questions intended for the current URS providers and experienced URS practitioners, as well as procedural issues

Session 1: Wednesday, 27 June, 10:30-12:00 (Panama City, UTC-5)

URS Data Discussion—Practitioners Survey Results

https://62.schedule.icann.org/meetings/699479

Session 2: Thursday, 28 June, 09:00-10:15 EST (Panama City, UTC-5)

URS Data Discussion—Providers Survey Results

https://62.schedule.icann.org/meetings/699483

Session 3: Thursday, 28 June, 10:30-12:00 (Panama City, UTC-5)

Discussion on Procedural Issues

https://62.schedule.icann.org/meetings/699484

Further Information

GNSO Project Page: http://gnso.icann.org/en/group-activities/active/rpm

Wiki Workspace: https://community.icann.org/x/wCWAAw

WG Charter: https://gnso.icann.org/en/drafts/rpm-charter-15mar16-en.pdf

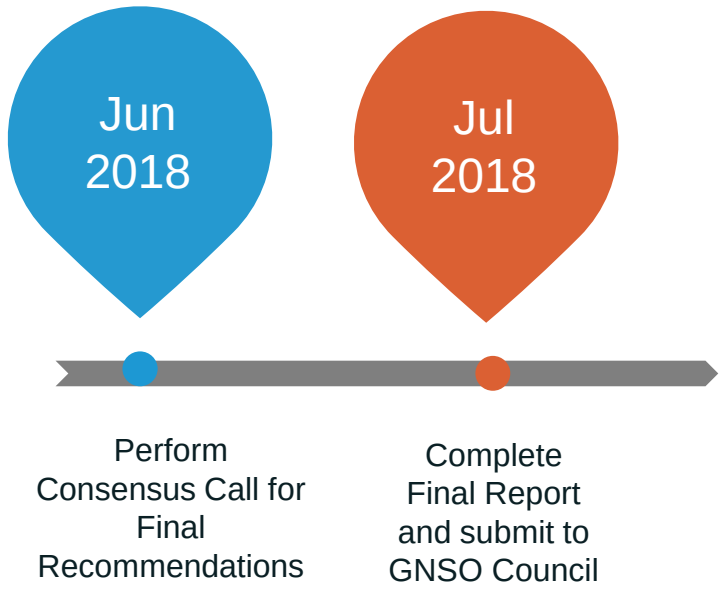
Please email the GNSO Secretariat at **gnso-secs@icann.org** if you wish to join the group

Questions

IGO-INGO Access to Curative Rights Protections GNSO PDP

Timeline to Completion of the PDP

- Launched June 2014
- Initial Report issued Jan 2017



Next Steps:

- GNSO Council consideration of report
- Board approval

What This Project is About

Determine whether the existing curative rights protection mechanisms (i.e., Uniform Domain Name Dispute Resolution Policy (UDRP) and Uniform Rapid Suspension (URS)) are sufficient for use by IGOs and INGOs. If not, consider whether amendments may be needed or if a separate, narrowly-tailored mechanism should be developed instead.

What is the current status/challenges (1/3)?

Determining Consensus on all Final Recommendations

- There previously appeared to be consensus on all recommendations, except for those related to IGO jurisdictional immunity (Rec 5) – but there has been recent debate about consensus levels for the Final Report.

- Currently understood consensus levels are:
  - **Recommendation 1**: no changes to UDRP/URS needed for INGOs
    - Full Consensus
  - **Recommendation 2**: filing under Article 6*ter* may be option for IGO to demonstrate standing where it has no registered TM or service mark
    - Consensus
  - **Recommendation 3**: guidance on procedural filing options for IGOs (e.g., file UDRP/URS on their behalf via assignee, agent, or licensee)
    - Consensus
  - **Recommendation 4**: any discussions on feasibility of providing UDRP/URS at no or nominal cost to IGOs to be between Board/GAC/IGOs
    - Strong Support but Significant Opposition

What is the current status/challenges (2/3)?

Determining Consensus on all Final Recommendations, cont.

Assumption: IGO files UDRP/URS -> IGO succeeds -> Registrant files lawsuit in court of Mutual Jurisdiction -> IGO successfully asserts immunity

- **Recommendation 5 / Options 1-6**
  - **Option 1**: decision against registrant invalidated
    - **Consensus** or **Strong Support but Significant Opposition**
  - **Option 4**: no changes recommended to UDRP/URS, but if needed, should be within ambit of RPMs PDP
    - **Consensus** or **Strong Support but Significant Opposition**
  - *Option 2 - No Consensus/Divergence*
  - *Option 3 - Minority View (Consensus Against)*
  - *Option 5 - No Consensus/Divergence*
  - *Option 6 - Strong Support but Significant Opposition*

What is the current status/challenges (3/3)?

Recent procedural appeals:

- Two appeals pursuant to Section 3.7 of the GNSO Working Group Guidelines filed
  - December 2017 - to challenge mechanisms proposed by co-chairs to determine consensus
  - June 2018 - to assert that the remaining Chair (one co-chair has resigned), Council liaison, and policy staff are not performing their role, are working to sabotage the Final Report by imposing short deadlines, and not following proper procedures for a consensus call.

Timelines delayed:

- Working Group seeking to deliver Final Report to Council for July 2018 meeting. *Council should be prepared to consider the Final Report.*

Sessions at ICANN62 and Further Information

Meetings

No meetings scheduled

Resources

- GNSO Project Page: https://gnso.icann.org/en/group-activities/active/igo-ingo-crp-access
- Working Group Wiki space: https://community.icann.org/x/37rhAg
- Working Group Charter: https://community.icann.org/download/attachments/48347887/WG%20Charter%20-%20as%20amended%2016%20April%202015.pdf?version=1&modificationDate=1483721507000&api=v2
- GNSO Working Group Guidelines: https://gnso.icann.org/en/council/annex-1-gnso-wg-guidelines-30jan18-en.pdf

What are the current challenges and issues?

*For this slide, please note the current status of the WG's progress as well as the timeline associated with the next milestone.

*What is the likelihood / expectation of the leadership team that the milestones will be met?

Questions

GNSO (E)PDP on Temporary Specification on gTLD Registration Data

Current status

- ICANN Board adopted a temporary specification on 17 May 2018, with an effective date of 25 May 2018.
- This has started the 365 day clock for the GNSO to complete a policy development process to develop consensus policy to be effective after the expiry of the temporary specification. As Council is the manager of the PDP, it is responsible for ensuring effective set up, management and oversight.
- Questions in relation to the scope of the PDP, timing considerations, impact of potential future changes to the temporary specification and relevant procedural requirements have been discussed within the Council as well as with the ICANN Board, including during GNSO Council – Board meeting on 5 June and an extraordinary GNSO Council meeting on 12 June.
- GNSO Council will also need to decide whether to suspend or terminate the existing Next-generation Registration Directory Services PDP.
- Focus to this point has been to work and agree on procedural aspects to ensure optimal preparedness for the next steps.

What is the Council currently focusing on?

Drafting of EPDP Initiation Request & EPDP Charter including:

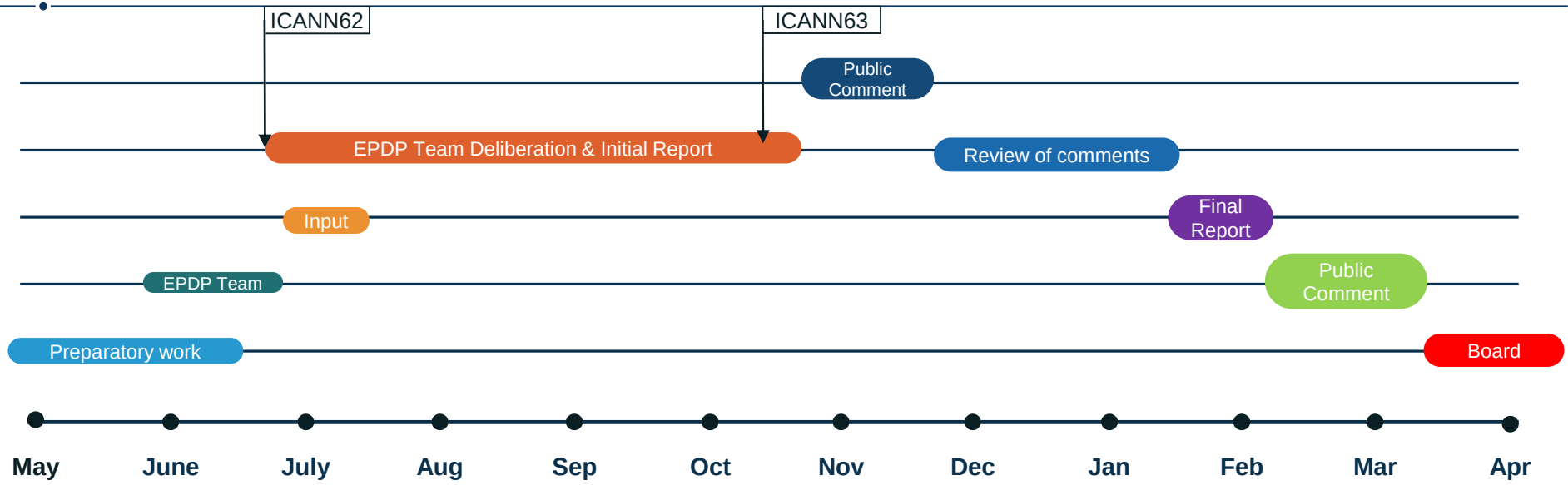
EPDP Scope
- What is the expected scope of the EPDP?

EPDP Leadership?
- Strong and experienced leadership a must – someone with no strong position on WHOIS/RDS?
- Council has the option to appoint Chair(s).

EPDP Team Composition?
- Possible features: representative, manageable, empowered, experienced and sustainable – current practices and approaches are not viable. Significant commitment will be required from members. Which option has the best chance of success?
- Refer to PDP 3.0 inputs.

EPDP Working Methods?
- Must enable meeting the one year deadline. How to optimise face-to-face time?
- What budget implications, if any, would these working methods have?
- How to facilitate Council oversight?

Draft EPDP Timeline



- Prep work, incl EPDP Initiation Request & Charter adoption
- Formation of EPDP Team; first meeting at ICANN62
- Input from SO/ACs & SG/Cs
- EPDP Team Deliberation & Publication of Initial Report
- Public Comment on Initial Report
- Review of Public Comment & Submission of Final Report
- Council consideration of Final Report
- Public Comment prior to Board consideration
- Board consideration

To Summarize

365 days available to carry out all required steps in an EPDP. Draft timeline assumes first meeting of EPDP at ICANN62 at the latest.

What to expect at ICANN62

- Significant time carved out on **Tuesday 26 June** and possibly **Wednesday 27 June** to discuss and prepare for next steps.

- High Interest Session: GNSO PDP on Temporary Specification for gTLD Registration Data - **Thursday, 28 June from 17:00 – 18:30** in Salon 1-3. GNSO Council Leadership to provide update during this session on the status of these steps, as well as latest developments from discussions at ICANN62.

Questions

Engage with ICANN

Thank You

Visit us at **icann.org**

@icann

facebook.com/icannorg

youtube.com/icannnews

flickr.com/icann

linkedin/company/icann

slideshare/icannpresentations

soundcloud/icann