Minutes of the GNSO Council Meeting 24 June 2020

Agenda and Documents

Coordinated Universal Time: 05:00 UTC: https://tinyurl.com/y9rrz5aw

(Tuesday) 22:00 Los Angeles; 01:00 Washington DC; 06:00 London; 10:00 Islamabad; 14:00 Tokyo; 15:00 Melbourne

List of attendees:

Nominating Committee Appointee (NCA): – Non-Voting – Erika Mann

Contracted Parties House

Registrar Stakeholder Group: Pam Little, Michele Neylon, Greg DiBiase

gTLD Registries Stakeholder Group: Maxim Alzoba, Keith Drazek, Sebastien Ducos

Nominating Committee Appointee (NCA): Tom Dale

Non-Contracted Parties House

Commercial Stakeholder Group (CSG): Marie Pattullo, Scott McCormick, Philippe Fouquart, Osvaldo Novoa, John McElwaine, Flip Petillion

Non-Commercial Stakeholder Group (NCSG): Juan Manuel Rojas, Elsa Saade, Tatiana Tropina, Rafik Dammak, Farell Folly (absent for vote, proxy for remainder of session to James Gannon), James Gannon

Nominating Committee Appointee (NCA): Carlton Samuels

GNSO Council Liaisons/Observers :

Cheryl Langdon-Orr– ALAC Liaison

Julf (Johan) Helsingius– GNSO liaison to the GAC

Maarten Simon – ccNSO observer

ICANN Staff

David Olive -Senior Vice President, Policy Development Support and Managing Manager, ICANN Regional

Marika Konings – Senior Advisor, Special Projects

Mary Wong – Vice President, Strategic Community Operations, Planning and Engagement

Julie Hedlund – Policy Director

Steve Chan – Policy Director

Berry Cobb – Policy Consultant

Emily Barabas – Policy Manager

Ariel Liang – Policy Support Specialist

Caitlin Tubergen – Policy Senior Manager

Nathalie Peregrine – Manager, Operations GNSO

Terri Agnew - Operations Support - GNSO Lead Administrator

Item 1: Administrative Matters

1.1 - Roll Call

Keith Drazek welcomed all councilors to the call.

1.2 - Updates to Statements of Interest

There were no updates to Statements of Interest.

1.3 - Review / Amend Agenda

There were no changes to the agenda as presented. **Sebastien Ducos** asked for additional time to cover an Implementation Review Team (IRT) update regarding recommendation 7 of EPDP Phase 1 Final Report under Any Other Business (AOB).

1.4 - Note the status of minutes for the previous Council meetings per the GNSO Operating Procedures:

Minutes of the GNSO Council meeting on 16 April 2020 were posted on 01 May 2020
Minutes of the GNSO Council meeting on 21 May 2020 were posted on 05 June 2020.

Item 2: Opening Remarks / Review of Projects & Action List

In the interest of time, this agenda item was postponed.

Item 3: Consent Agenda:

There was no item for Council consideration under the Consent Agenda.

Item 4: COUNCIL VOTE – Vote to Request an Issue Report on the Transfer Policy

Pam Little, seconded by **Rafik Dammak,** submitted a motion for the GNSO Council to approve a request for an Issue Report on the Transfer Policy**.**

Whereas,

Recommendation 18 of the Inter-Registrar Transfer Policy (IRTP) Part D PDP Working Group's Final Report states, "[t]he Working Group recommends that contracted parties and ICANN should start to gather data and other relevant information that will help inform a future IRTP review team in its efforts;"

ICANN org, in response to Recommendation 18 of the Inter-Registrar Transfer Policy (IRTP) Part D PDP Working Group's Final Report, delivered the Transfer Policy Status Report (TPSR) to the GNSO Council on 22 April 2019;

The GNSO Council issued a call for volunteers for a Transfer Policy Review Scoping Team on October 3, 2019;

The Transfer Policy Review Scoping Team held its first meeting on December 5, 2019;

ICANN org delivered the EPDP Recommendation 27 Wave 1 Report, which included an inventory of potential inconsistencies with the Transfer Policy and the EPDP Phase 1 recommendations, to the GNSO Council on 19 February 2020;

The Transfer Policy Review Scoping Team delivered its recommendations in the Transfer Policy Initial Scoping Paper on April 6, 2020;

The Transfer Policy Review Scoping Team recommended the GNSO Council instruct ICANN Policy staff to draft a Preliminary Issue Report, outlining, et.al., the issues described within the Transfer Policy Initial Scoping Paper;

Resolved:

The GNSO Council hereby requests the 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.

Pam Little provided further background to the Issue Report Request.

The necessary voting threshold for the GNSO Council to approve the request for an Issue Report is more than one-fourth vote of each House or majority of one House. All councilors present on the call voted in favour of the motion.
Vote results

Action item: none

Item 5: COUNCIL DISCUSSION – Expedited PDP (EPDP) on the Temporary Specification Phase 2: Project Change Request and Next Steps for Priority 2 Items

Keith Drazek provided background on the GNSO Council initiated Project Change Request (PCR). The EPDP team submitted a [PCR](#) for Council consideration, requesting that the new target delivery date be extended from 11 June 2020 to 31 July 2020 for the delivery of the Final Report for SSAD and priority 1 items.

Rafik Dammak, EPDP Phase 2 Vice-Chair and GNSO Council liaison, reminded councilors that this is the second time that the EPDP Phase 2 team submits such a request. The rationale for the PCR is the current Chair needing to leave, and the need to complete the Final Report. Rafik Dammak will step into the Chair role. The GNSO Council is expected to provide input on how the EPDP Phase 2 team is to move forward on priority 2 items. **Rafik Dammak** then reviewed the [framework document](#) highlighting three topics which will be difficult to complete discussing and working on before the deadline. There are three options: to reset the EPDP team with scope-related input from the Council, terminate the EPDP and initiate separate tracks to address outstanding topics, combine options 1 and 3 and reset a PDP to deal with the accuracy topic and additional tracks to focus on the outstanding, remaining topics. **Rafik Dammak** indicated that he recommends option three.

Keith Drazek thanked **Rafik Dammak** for stepping in as Chair. He clarified there are two items to consider: the PCR and the framework of approaches of how to deal with remaining issues and priority 2 items.

James Gannon mentioned that there had been requests raised on the GNSO Council mailing list that the extension needed to be focused solely on completing the Final Report. He also asked how the GNSO Council would come to agreement on the chosen framework. **Keith Drazek** expressed his preference for a discussion at Council level in order to come to a decision, without necessarily requiring a vote.

Michele Neylon shared that within the Registrar Stakeholder Group, there had been discussions on the matter. Regarding the PCR agreement, given that the deadline has already passed, there cannot be discussion. He insisted on the need for the Final Report to be completed and for this to be the sole purpose for the extension request.

Rafik Dammak provided further detail on the PCR request. Currently there is a small team working on the evolution mechanism for SSAD and the EPDP team having 3 calls in total to finish the review, there will be a silent week for different groups to work on a final review. He added that for the team to be able to work on the question of legal vs natural, ICANN Org was expected to provide a study, but did not provide

it on time. He indicated that GNSO council should send a clear message and guidance with regard to the extension and expectations to finish the work on the final report.

Tatiana Tropina requested that when communicating the PCR approval, the purpose of the extension be clearly mentioned as other groups were still asking for priority 2 items to be taken into account. **Keith Drazek** added that the content of the PCR clearly stated that the focus was on priority 1 items and that input was expected from the GNSO Council as to how to deal with priority 2 items.

John McElwaine noted that the Intellectual Property Constituency (IPC) had no objections to the PCR and that the level of detail of the document was appreciated. He agreed with Tatiana's point on the need for clarity. The IPC would prefer option 3 on the basis that work would be continued on data accuracy, legal vs natural and the feasibility of the anonymized email address. He also added that former EPDP members would be better informed to be part of these tracks.

Marie Pattullo, from the Business Constituency (BC), extended her thanks to the members of the EPDP Phase 2 team. She added that the BC was concerned about priority 2 items, but that it would support the PCR to complete the Final Report. However, priority 2 items are critical, and not just to the GNSO, and need to be dealt with accordingly, moreover as GNSO councilors with a responsibility to the Policy Development Process. **Keith Drazek** agreed that the GNSO Council needs to work together, or in a small team capacity on a chosen framework before the July 2020 GNSO Council meeting. On the Zoom chat, several councilors volunteered to work in a small team capacity on the topic.

Greg Dibiase, from the RrSG, raised that the EPDP team "can't reach consensus" is not the same as "have not addressed" as several priority 2 topics had indeed been discussed and worked on within the EPDP Phase 2 but without reaching consensus. The RrSG would therefore prefer framework option 2, and have a better scoping mechanism and understanding as to why consensus has not been reached.

Philippe Fouquart, from the Internet Service Providers and Connectivity Providers Constituency (ISPCP), mentioned that there was no objection from the ISPCP to the PCR. Regarding option 2, there would be items of option 1 carried over, so there is overlap between the two options. For the meanwhile, option 3, is the ISPCP's preferred option pending further clarification on all three options proposed. **Keith Drazek** clarified that a "reset" would be a re-chartering of the EPDP to refocus on legal vs natural and feasibility, with the topic of accuracy being for separate consideration.

Maxim Alzoba, on behalf of the Registries Stakeholder Group (RySG) , would prefer option 2 as these topics must be worked on further, but without repeating what has already been worked on. Therefore re-setting the EPDP is not a good idea. The EPDP Phase 2 team must stick to this current extension however.

Rafik Dammak thanked all for their input, and insisted on the need for a communication from the GNSO Council to the EPDP Phase 2 team that the Council is managing the process. Regarding the framework for next steps, he encouraged councilors to take a closer look at the document which provides additional information on the topics which cannot be covered by EPDP Phase 2. He noted a clear, separate track for the topic of accuracy, and more scoping needed for the other topics.

Action item:

● A Council small team, consisting of Council leadership, support staff, and interested Council members -- including Marie Pattullo, Philippe Fouquart, Sebastien Ducos, John McElwaine, Greg DiBiase -- to develop a consolidated approach to address the remaining EPDP priority 2 topics, with the aim to report back to the Council prior to the July 2020 Council meeting.

Item 6: COUNCIL DISCUSSION - Cross Community Working Group on new gTLD Auction Proceeds (CCWG AP) - Final Report

Erika Mann, co-chair of the CCWG Auction Proceeds (CCWG AP) provided councilors with an update on the group's activity to date.

Erika Mann reminded Council that there had been two Public Comment Periods, the input received during both was integrated into the Final Report. The chosen working method, coordination with the ICANN Board, ICANN Legal and ICANN Finance, was to address the concern to the relevant department immediately, and have it on record, to avoid any inconsistencies in the Final Report leading to further discussion. The CCWG AP was tasked by the Chartering Organizations (COs) with working on a mechanism to allocate the Auction Proceeds fund. The Final Report was submitted to the COs at the end of May 2020 with a two-month period for feedback.

There were four mechanisms originally, but the group narrowed it down to three rapidly: A, an internal department dedicated to the allocation of auction proceeds is created within the ICANN organization; B, an internal department dedicated to the allocation of auction proceeds is created within the ICANN organization which collaborates with an existing nonprofit; C, a new charitable structure (ICANN Foundation) is created, functionally separate from ICANN org, responsible for the allocation of auction proceeds. The Final Report recommends that the Board selects either A or B, with a preference expressed by CCWG AP members for mechanism A. The CCWG encourages the Board to proceed with a feasibility assessment in addition to the existing guidelines provided by the CCWG.

Also included is a whole set of recommendations which the following team will have to translate into concrete and operational steps: an Independent Project Evaluation Panel to consider and select projects, objectives of fund allocation, safeguards and auditing requirements, existing ICANN Accountability Mechanisms cannot be used to challenge decisions on individual applications, all must be implemented in an effective and judicious manner. Two types of review are also recommended: internal and strategic. Not

all these recommendations gathered full consensus in the CCWG AP, but these recommendations remain unimpacted by choice of mechanism A or B.

What is not in the CCWG's scope are any recommendations with regards to specific finding decisions, including specific organizations or projects to fund or not.

The co chairs designated the level of support for the final report recommendations as consensus. Two minority statements were submitted. The co-chairs did not vote in order to remain independent.

Erika Mann thanked the GNSO support staff , ICANN Org and ICANN Board for their support and engagement.

Keith Drazek thanked Erika for her commitment to the CCWG AP, and reminded councilors that they have an obligation to read the Final Report and provide input.

James Gannon thanked Erika Mann for her shepherding of the process and hoped that the GNSO Council could vote on the Final Report rapidly so it moves into implementation.

Michele Neylon reiterated thanks for the work covered. He also asked about ICANN Org previous transferring of funds from the Auction proceeds to cover a shortfall created by legal fees incurred by the IANA Transition and if there were safeguards to prevent this happening again. **Erika Mann** responded that there is an understanding that this would only be possible in extraordinary circumstances, a financial situation which would put the organization at risk.

Action item: none

Item 7: COUNCIL DISCUSSION: CCWG-Accountability WS2 Implementation Assessment Report and GNSO Next Steps

Keith Drazek raised that the GNSO Council needed to understand the potential impact of the WS2 recommendations and next steps for implementation, both of which would feed into the GNSO work prioritization topic.

Tatiana Tropina, having participated in WS2, asked whether it would be feasible for a small group of councilors to review the report and highlight the impacts for the GNSO as well as to work out a coordination with the Multi Stakeholder Strategy and Strategic Initiatives (MSSI) ICANN Org team.

Rafik Dammak agreed with Tatiana, but added that the small team should review the Implementation Plan and identify next steps or preparatory work to integrate them into the GNSO Work Plan with clear deadlines. He recommended that the small team coordinate the relevant ICANN department. He

reminded councilors that several reviews were currently either in a Public Comment period or requesting input more generally.

Tom Dale supported Tatiana's point, and having looked at the ATRT3 Final Report out for Public Comment and the work on the evolution of the multistakeholder model effectiveness, was looking forward to contributing to the small group.

Action items:

- A GNSO Council small team -- including Juan Manuel Rojas, James Gannon, Tatiana Tropina, Tom Dale, and Keith Drazek from Council Leadership -- to deliberate on the WS2 Implementation Assessment Report, coordinate with ICANN org depts (new Planning Function being established under our CFO Xavier Calvez & MSSI), and develop a work plan for consideration by the GNSO Council; this small team is also expected to consider potential overlaps between WS2 implementation and ATRT3 & MSM evolution.
- Staff to schedule a meeting of the small team.

Item 8: COUNCIL DISCUSSION - Independent Review Process (IRP) Standing Panel

Keith Drazek clarified that there was a need to determine if there was a Council position on how to appoint IRP standing panel members. He asked councilors to take this back to their Stakeholder Groups and Constituencies (SGs and Cs) as this is a critical accountability mechanism.

James Gannon raised a concern about using the IRP Implementation Oversight Team (IRP IOT) as a small representative group to serve as interim members of the IPR Standing Panel. He added that is to establish them as a group to assist ICANN org in establishing a panel, that would be acceptable.

Keith Drazek agreed that the IPR IOT would not become panelists, but that the question remains of what the right mechanism would look like.

Action item:

- GNSO Councilors to consult with their respective SGs/Cs regarding how to appoint IRP standing panel members and share their feedback no later than the July 2020 Council meeting

Item 9: COUNCIL DISCUSSION - GNSO Work Prioritization - Council Work Plan and Program Management

Steve Chan, ICANN Org, provided background to the work plan project. January 2020, during the GNSO Council Strategic Planning Session (SPS), prioritization was considered a key topic. Feedback was received from SGs and Cs and integrated into a [draft work plan](#) which highlighted urgency and dependencies. However a near-term action plan was needed and staff has been working on a methodology over the last few months. **Steve** provided a sneak preview of the work document in progress. The last part of the document is the Council action decision register radar to point out what work the Council must undertake in the next few months. The beginning of the document is to create a catalogue of all the work and an ensuing project plan. Rather than concentrate on individual items, it focuses on their place within a program. There is then an expansion of all the projects that constitute the programs.

An extraordinary Council meeting will be warranted to review the work so far.

Action item:

● GNSO Council to organize a 2-hour extraordinary session proposed for 16 July 2020 at 21:00 UTC, to review the details of the work prioritization.

Item 10: ANY OTHER BUSINESS

● 10.1 - DNS Abuse - While this is not a substantive item for this agenda, this is intended to serve as a reminder of community discussion leading up to and during ICANN68, which will inform the GNSO Council's contribution to this topic in the future.

Keith Drazek notified councilors that as the GNSO Council, they will need to discuss the topic of DNS abuse in response, or related, to the [letter](#) sent by the co-chairs of the GNSO New Subsequent Procedures PDP Working Group (SubPro WG) on the referral of the CCT RT recommendations related to DNS Abuse. **Jeff Neuman**, co-chair SubPro, raised the Government Advisory Committee's disappointment at the DNS Abuse topic to have been referred to the GNSO Council. **Keith Drazek** confirmed the GNSO Council had no response at this time.

Michele Neylon mentioned that the topic of DNS abuse has been discussed a lot and emphasized the need to make policy based around facts. There is therefore a need for accurate data. **Keith Drazek** concurred and added that it was key to comply with ICANN's Bylaws and within the GNSO Council's remit.

● 10.2 - [Draft response](#) to the ICANN Board regarding recommendations from the Registration Directory Service Review Team (RDS-WHOIS2-RT) passed through to the GNSO Council.

Pam Little noted the BC's proposed amendments to the draft response and suggested her and Marie Pattullo (BC councilor) work together on the document. She invited other councilors to join the effort if required.

Action item:

- Pam Little to work with Marie Pattullo to complete the draft response, as soon as practical, to the ICANN Board regarding RDS-WHOIS2-RT recommendation for consideration by the GNSO Council

- 10.3 - EPDP IRT Update from **Sebastien Ducos**, liaison from the GNSO Council to the IRT, on recommendation 7.

He has received input from the Contracted party house (CPH) and from the IPC and BC. The issue resides less in the wording of Rec 7 than in the implications. Different parties have different views on the pertinence of Thick Whois questioning whether or not it qualifies as the appropriate legal basis to transfer data from registries to registrars. There is agreement that the best way forward would be for this to be resolved within the IRT without the issue having to be presented officially to the GNSO Council.

Action item:

- Sebastien Ducos to provide a written update on EPDP IRT discussions on recommendation 7

- 10.4 - Open Microphone

There were no questions from attendees. **Keith Drazek** invited comments or questions to be raised to him directly once the meeting ended.

Keith Drazek adjourned the meeting at 07:01 UTC on Wednesday 24 June 2020