

Possible next steps in preparation for a possible adoption of a temporary policy / specification by the ICANN Board in relation to the interim model for GDPR Compliance

1) Informational Q&A-style webinar for GNSO Council and SG/C leadership

Objectives:

- Ensure a common understanding of the impact of the adoption of a temporary policy / specification – a PDP with a one year timeline kicks off;
- Ensure a common understanding and acceptance of the responsibility of the Council as a manager of the PDP;
- Ensure a common understanding of the options that have been presented by the RDS leadership team, with an EPDP being considered the most likely to be able to meet the one year timeline (with the requirements for an EPDP also met);
- Agree on a path forward, in combination with a proposed timeline and consideration of items that will need to be agreed upon such as:
 - PDP Team composition
 - Working methods
 - Leadership
 - Timeline / expected milestones

Possible timing:

Immediately following the ICANN Board meeting in Vancouver and the GDD summit, to have the latest information available with regards to potential Board action. Possible date: 21 May.

2) Schedule follow-up call with the ICANN Board to share outcome of informational webinar and obtain further details in relation to likelihood and possible timing of the adoption of a temporary policy (or if a temporary policy has already been adopted, allow for sharing of information, setting of expectations and a common understanding of next steps).

Objectives:

- Share Council's thinking in relation to next steps. If the GNSO Council is willing to initiate an EPDP, this will need to be communicated to the ICANN Board as otherwise the adoption of a temporary policy would kick off a Board initiated PDP which would start with the request for an Issues Report (note, the Board cannot initiate a EPDP, this option is only available to the GNSO Council if GNSO Supermajority Support is obtained).
- If applicable, get indication of the likelihood and possible timing of the adoption of a temporary policy / specification.
- If applicable, allow for clarifications and further information on the temporary policy as well as a common understanding of expected next steps.

Possible timing:

Week of 21 May

3) Drafting team (Council leadership + Council volunteers) to develop proposed EPDP Initiation Request (assuming for now support for an EPDP)

Objectives:

- Start work on the EPDP Initiation Request so that as much information as possible can be filled out / agreed upon such as team composition, timeline, working methods and considered by the GNSO Council prior to a formal decision.

Possible timing:

- Now?

4) Schedule a special GNSO Council meeting to initiate an EPDP (14 days notice needs to be provided)

Objectives:

- Allow for the ability for the Council to act as soon as possible after the Board takes action (if this would happen at the ICANN Board meeting in Vancouver)
- Allow for action and/or discussion on the EPDP Initiation Request prior to ICANN62 - if possible (should the relevant documentation / proposals not be ready in time, this meeting would be cancelled).

Possible timing:

14 June – 14 days notice needs to be provided per the GNSO Council Operating Procedures

Issues / items that will need further consideration and agreement should an (E)PDP be initiated

- **(E)PDP Work Team Composition**

Regardless of model / composition chosen, it will be important for the Council to specify desired skills, experience as well as expected time commitment of members, as well as rules of engagement. In line with suggestions made in the context of the PDP 3.0 discussions, this could then take the form of a 'commitment of participation' for WG members.

Possible models (non-exhaustive list):

Option 1 (GNSO Working Group Model)

The (E)PDP Team will be open to all interested in participating. New members who join after work has been completed will need to review previous documents and meeting transcripts.

Potential issues: WG would likely be extremely large noting interest in this topic, which would make the management of the group and deliberations challenging and lengthy, similar to some of the challenges that the RDS PDP WG has faced, and which has hindered the RDS PDP WG's ability to reach consensus.

Option 2 (CCWG Model)

Participation in the (E)PDP is open to GNSO Stakeholder Group (SG) appointed Members, participants and observers. Members are appointed by GNSO Stakeholder Groups in accordance with their own rules and procedures. Each Stakeholder Group would appoint a maximum of 3 Members with up to 2 alternates (alternates would only participate if members are not available). Other ICANN SO/ACs would be invited to appoint 1 member, and if needed, 1 alternate who would participate if the member is not available. (numbers could be adjusted – may need to consider the potential budget impact of # number of members should F2F meetings be deemed necessary).

In addition to the role that SG appointed members have in relation to potential consensus calls or decisions (see below), they are expected to serve as a liaison between their respective SGs and the (E)PDP WG. Members must, if and when necessary, ensure that the SGs are kept up to date on the progress and deliberations of the (E)PDP WT as well as sharing any input from the SGs with the (E)PDP WT.

In addition, the (E)PDP WT would be open to any interested person as a Participant. Participants may be from a GNSO Stakeholder Group or Constituency, or may be self-appointed and derive from within the ICANN or broader community. Participants will be able to actively participate in and attend all (E)PDP WT meetings. However, should there be a need for a consensus call or decision, such consensus call or decision will be limited to members appointed by the GNSO SGs who may consult as appropriate with their respective SGs. By self-appointing, a Participant

commits to abide to the charter of the (E)PDP WT.

Observers may join the (E)PDP WT and would be subscribed to the mailing list on a read-only basis (no posting rights). Observers are not allowed to attend the (E)PDP WT meetings. However, should an observer desire to change his/her status to participant, they can do so at any time.

Potential Issues:

Due to the interest in the topic, a significant number of participants would likely sign up making the group very large and possible unwieldy.

Option 3 (GNSO Review WG Model)

Each GNSO Stakeholder Group and/or Constituency will identify one primary and one alternate member to serve on the (E)PDP WT.

In addition, anyone interested will be able to join this working group as a participant or observer.

Potential Issues:

Due to the interest in the topic, a significant number of participants would likely sign up making the group very large and possible unwieldy.

Option 4 (Standing Selection Committee Model)

The (E)PDP shall consist of a total of 9 members, appointed as follows:

- A. One member appointed by each Stakeholder Group of the Contracted Party House;
- B. One member appointed respectively by each of the Business Constituency, the Intellectual Property Constituency, and the Internet Service Providers and Connectivity Providers Constituency;
- C. Three members appointed by the Non-Commercial Stakeholder Group; and,
- D. One member from one of the three Nominating-Committee appointees to the GNSO Council

Potential issues:

In the standing committee model, decisions are taken by full consensus which is not, normally, the case in a PDP so this composition may not be acceptable as a result.

Option 5 (CCWG minus model)

Participation in the (E)PDP is open to GNSO Stakeholder Group (SG) appointed Members, participants and observers. Members are appointed by GNSO Stakeholder Groups in accordance with their own rules and procedures. Each Stakeholder Group would appoint a maximum of 3, with up to 2 alternates (alternates would only participate if members are not available). Other ICANN SO/ACs would be invited to appoint 1 member, and if needed, 1 alternate who would participate if the member is not available. [numbers could be adjusted – may need to consider the potential budget impact of # number of members should F2F meetings be deemed necessary]

Observers may join the (E)PDP WT and would be subscribed to the mailing list on a read-only basis (no posting rights). Observers are not allowed to attend the (E)PDP WT meetings. The members should provide for a regular opportunity for observers to share their perspectives / input, possibly through a regular status update webinar or some other means (e.g. a monthly general assembly or town hall meeting).

Option 6 (Committee of the whole)

The (E)PDP WT will consist of all Council members.

Potential issues: with a number of Council members leaving the Council during ICANN62, this could be problematic from a continuity perspective

- **(E)PDP Leadership**

What is the ideal approach / structure for the leadership? One chair, a chair & vice-chairs / co-chairs?

Should the chair be appointed by the GNSO Council or selected by the (E)PDP Team?

Should the chair come from the community or be 'external' (not have any affinity with any specific group and/or the topic)?

- **(E)PDP Working Methods**

What working methods should be considered to meet the one year deadline?

What budget implications, if any, would these working methods have?

How to optimise face-to-face time?

What role does the GNSO Council have in oversight of the (E)PDP WG's timeline and workplan? Is it appropriate to set interim check points in line with the timetable below?

- **EPDP Initiation Request**

The following information needs to be provided for an EPDP Initiation Request:

- a) Name of Council member / SG / C
- b) Origin of issue (e.g. previously completed PDP)
- c) Scope of the effort (detailed description of the issue or question that the EPDP is expected to address);
- d) Description of how this issue meets the criteria for an EPDP, i.e. how the EPDP will address either (1) a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of

- such an adopted recommendation; or (2) new or additional policy recommendations on a specific GNSO policy issue that had been scoped previously as part of a PDP that was not completed or other similar effort, including relevant supporting information;
- e) If not provided as part of item d, the opinion of the ICANN General Counsel regarding whether the issue proposed for consideration is properly within the scope of the ICANN’s mission, policy process and more specifically the role of the GNSO. In determining whether the issue is properly within the scope of the ICANN policy process, General Counsel’s opinion should examine whether the issue:
 - 1) Is within the scope of ICANN's mission statement, and more specifically the role of the GNSO;
 - 2) Is broadly applicable;
 - 3) Is likely to have lasting value or applicability, albeit with the need for occasional updates;
 - 4) Is likely to enable ICANN to carry out its commitments under the Affirmation of Commitments;
 - 5) Will establish a guide or framework for future decision-making;
 - 6) Will implicate or affect an existing ICANN policy.
 - f) If not provided as part of item 4, the opinion of ICANN staff and their rationale as to whether the Council should initiate the EPDP on the issue;
 - g) Proposed EPDP mechanism (e.g. WG, DT, individual volunteers);
 - h) Method of operation, if different from GNSO Working Group Guidelines;
 - i) Decision-making methodology for the proposed EPDP mechanism, if different from GNSO Working Group Guidelines;
 - j) Desired completion date and rationale for this date.

The request for an EPDP may also include a proposed EPDP Team Charter, which the Council may consider at the same time as the EPDP Initiation Request. If no such Charter is provided, or if the proposed Charter is not approved, Section 8 of the PDP Manual, with the exception of the provision on the voting threshold required for adoption of the Charter, will apply to the drafting of the EPDP Team Charter. Adoption of a Charter drafted in accordance with Section 8 of the PDP Manual requires an affirmative Supermajority Vote of the Council.

- **Draft (E)PDP Timeline**

Numbers indicate required steps	Process Steps - Expedited Policy Development Process	Draft Timeline	Day	Duration	Who	Notes
1	Preparatory Discussions, including preparation of EPDP Scoping Document	10 April - 27 June-18		78 days	Council leadership, Council, Board, RDS leadership, Staff	

	and EPDP Team Charter					
	Possible adoption of temporary policy / specification by the ICANN Board	14-May-18	0		ICANN Board	
2	Adoption of scoping document (EPDP)	27-Jun-18	44		GNSO Council	At the latest. Ideally it would be adopted during the previous Council meeting (24 May) but that may not provide enough time. If a special meeting is scheduled prior to ICANN62, potential adoption could be sooner than 27 June.
3	Drafting of the EPDP Charter	10 April - 27 June-18		78 days		To be developed in conjunction with EPDP scoping document
4	Approval of the EPDP Charter	27-Jun-18	44		GNSO Council	
5	Formation of EPDP Team (WG, DT, TF, etc.)	24 May - 26 June-18		33 days	Staff/Council leadership	On the assumption that agreement will be reached by the 24 May Council meeting, the EPDP Team would be formed on the assumption of Council approval of EPDP Scoping Document and Charter so that the team can meet F2F at ICANN62. If no agreement is reached, it will mean that significantly less time is available to develop the Initial Report.
6	Input from other SO/ACs/GNSO SG/Cs	29 June - 20 July-18		21 days		A minimum of 21 days needs to be provided
	Publication of draft Initial Report	1-Oct-18	140		EPDP Team	Publish in time for ICANN63 to allow for review prior to the meeting. Ideally by 1 October, but at the latest by 8 October.

	ICANN62	20-26 October-18				HIT session on Monday to discuss draft Initial Report. EPDP F2F Team meeting later in the week to review input and finalize Initial Report.
7	Publish Initial Report	26-Oct-18	165	122 days	EPDP Team	Duration is calculated from first anticipated meeting of EPDP at ICANN62
8	Public comment forum on the Initial Report	26 October - 25 November-18		30 days		Minimum timeframe for public comment is 30 days. This would require the approval of two ICANN executives as the standard public comment period duration is 40 days.
	Review of public comments by EPDP Team & updates to Initial Report	25 November-18 -13 January-19		49 days	EPDP Team	Comments to be reviewed as they come into the public comment forum. Respondents to be encouraged to submit input as soon as possible and not to wait until the deadline.
9	Submission of Final Report to the GNSO Council	14-Jan-19	245	50 days	EPDP Team	Duration is calculated from close of the public comment period until submission of Final Report
10	Approval of Final Report and Recommendations by the GNSO Council	24-Jan-19	255		GNSO Council	
11	Report to the Board	30-Jan-19	261		GNSO Council	
12	Publish Recommendations for Public Comment	4-Feb-2019 - 6 March-19		30 days	Staff	Minimum timeframe for public comment is 21, but in order to give due time, 30 days has been proposed.
Optional	Public Forum Discussion					

13	Inform GAC if Recommendations affect public policy	4-Feb-19	266		ICANN Board	
14	Board Paper	20-Mar-19	310		Staff	
15	Board consideration / approval	14-May-19	365		ICANN Board	
Total						
19	Notice of Policy actions					
20	Implementation Direction					
	Implementation Effective Date					