

ICANN GNSO Board Review 2004 /2005 Terms of Reference v7

Background

Article IV, Section 4 of the ICANN bylaws requires the ICANN Board to organise regular reviews of each Supporting Organisation, Council, and Advisory Committee. The review must be undertaken by an independent entity.

<http://www.icann.org/general/bylaws.htm#IV>

Section 4. PERIODIC REVIEW OF ICANN STRUCTURE AND OPERATIONS

1. The Board shall cause a periodic review, if feasible no less frequently than every three years, of the performance and operation of each Supporting Organization, each Supporting Organization Council, each Advisory Committee (other than the Governmental Advisory Committee), and the Nominating Committee by an entity or entities independent of the organization under review. The goal of the review, to be undertaken pursuant to such criteria and standards as the Board shall direct, shall be to determine

**(i) whether that organization has a continuing purpose in the ICANN structure, and
(ii) if so, whether any change in structure or operations is desirable to improve its effectiveness.**

The results of such reviews shall be posted on the Website for public review and comment, and shall be considered by the Board no later than the second scheduled meeting of the Board after such results have been posted for 30 days. The consideration by the Board includes the ability to revise the structure or operation of the parts of ICANN being reviewed by a two-thirds vote of all members of the Board.

2. The first of such reviews, to be initiated no later than 15 December 2003 and to be completed in time for Board consideration at ICANN's annual meeting in 2004, shall be of the GNSO Council and the ICANN Root Server System Advisory Committee. The second of such reviews, to be initiated no later than 15 November 2004 and to be completed in time for Board consideration at ICANN's annual meeting in 2005, shall be of the ccNSO, the ccNSO Council, and such other organizations as the Board may designate.

ICANN core values

ICANN's core values provide guidance as to how it should perform its mission. Certain of these are relevant for the GNSO Council review.

1. Preserving and enhancing the operational stability, reliability, security, and global interoperability of the Internet.
2. Respecting the creativity, innovation, and flow of information made possible by the Internet by limiting ICANN's activities to those matters within ICANN's mission requiring or significantly benefiting from global coordination.
3. To the extent feasible and appropriate, delegating coordination functions to or recognizing the policy role of other responsible entities that reflect the interests of affected parties.
4. Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making.
5. Where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment.
6. Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest.
7. Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.
8. Making decisions by applying documented policies neutrally and objectively, with integrity and fairness.
9. Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.

10. Remaining accountable to the Internet community through mechanisms that enhance ICANN's effectiveness.
11. While remaining rooted in the private sector, recognizing that governments and public authorities are responsible for public policy and duly taking into account governments' or public authorities' recommendations.

Role of the GNSO Council as described in the ICANN Bylaws

The Generic Names Supporting Organization (GNSO), is responsible for developing and recommending to the ICANN Board substantive policies relating to generic top-level domains (Article X, Section 1). The GNSO Council is responsible for managing the policy development process of the GNSO (Article X, Section 2).

Timeline

The review of the GNSO Council (rather than the whole GNSO) is to be completed before the ICANN annual general meeting in Dec 2004. These terms of reference are recommended to the ICANN Board meeting of 18 October.

Methodology and scope

The review will be conducted by an independent consultant based on factual analysis prepared by the ICANN staff and a short report from the GNSO Council based on the same analysis. The consultant's report will then be submitted for a public comment period. The scope of the review is the work carried out by the GNSO Council to date including work brought forward to the GNSO Council from the DNSO Names Council.

Independent consultant

Given the tight time frame for this review it is recommend that the ICANN Board select a consultant with a working knowledge of ICANN and its structure.

Proposed terms of reference

Goal 1 "whether that organization has a continuing purpose in the ICANN structure".

1. Policy achievements. Has the GNSO Council contributed to ICANN policy development?

- Analysis. List the policy achievements of the GNSO as administered by the Council indicating in a tabular form:
 - what has been done
 - what is work in progress
 - how was this done (task force, committee of the whole etc)
 - what has resulted in change to the contracts of registries or registrars.
 - what has resulted in other types of change (guidelines etc.)
- Do these policies have relevance for ICANN?
- Make recommendations.

2. Outreach, geographic diversity and transparency. Has the GNSO Council contributed to other ICANN core values such as outreach, bottom-up consensus based policy development, geographical diversity and transparency?

- Analysis. List in tabular form the other achievements of the GNSO Council including Council resolutions and other activities not directly related to policy achievements, such as outreach, workshops, interactions with the other supporting organisations (CCSO) and advisory committees (GAC, ALAC, SSAC) etc.
- Do these activities have relevance for ICANN?
- Make recommendations.

Goal 2. “whether any change in structure or operations is desirable to improve its effectiveness”.

Background analysis. List current structure of GNSO Council constituencies and members.

3. PDP timelines. Are the timelines relevant ?

- Analysis. Compare the bylaws stipulated timelines for policy development process with the actual timelines needed in the policy achievements listed under Goal 1.
- Were the stipulated timelines realistic for:
 - the work of Council,
 - outreach by Council within the GNSO,
 - outreach by Council outside the GNSO?
- Make recommendations.

4. Staff support for policy development. Has there been effective ICANN staff support for policy development?

- Analysis. For the table of policy achievements listed under Goal 1, list the number of reports by type (issue, drafts, final) written by ICANN staff (including man hours per report) and those written by GNSO members or others.
- Analysis. List the number of GNSO Council calls attended by ICANN’s legal counsel or deputy.
- Based on this analysis consider if adequate ICANN staff support for the policy development process has been provided?
- Has there been sufficient and timely input from ICANN's legal counsel? What has been the nature of this input?
- Make recommendations.

5. Policy implementation and compliance. After the completion of policy development has policy implementation, compliance and outcome been effective?

- Analysis. For the table of policy achievements listed under Goal 1, list the timelines for ICANN staff to have fully:
 - implemented the policy (typically by making changes to contracts)
 - measured compliance of the implemented policy
 - measured outcomes (has the objective been achieved)
- Based on this analysis, assess if the implementation, compliance and outcome measurement timelines have been effective.
- Make recommendations.

6. Demand-based raising of policy issues. Is the current mechanism of alerting the GNSO Council to new policy issues effective?

- Analysis. Document how policy issues have been raised (e.g from ICANN staff, from within the GNSO via constituencies, from advisory committees etc). Is there today a systematic analysis of complaints received by ICANN staff that could assist the GNSO Council in prioritising work? Achieve this by polling of ICANN staff.
- Make recommendations.

7. Voting pattern. Does the Council vote as a consensual body?

- Analysis. List the voting record including proxies of all GNSO Council votes by member by constituency including the nominating committee representatives.
- Compare this record to the working assumption of the “Evolution and Reform Process” of conflict between the user (business, non-commercial, IP, ISP) and supplier

(registries and registrars) constituencies. Based on this assess the actual mediating role of the nominating committee representatives in the above listed votes.

- Make recommendations.

8. Number of constituency representatives. Has the presence of three rather than two representatives per constituency helped or hindered the GNSO Council?

- Analysis. List the record of members present per GNSO Council meeting by constituency and geographic region.
- Is there evidence that the current size of the GNSO Council has reduced its effectiveness?
- Is there evidence that three representatives per constituency has enhanced the Council's effectiveness?
- Make recommendations.

9. Communication to the ICANN community. Are the enabling mechanisms for GNSO Council outreach effective?

- Analysis. Short questionnaire-based survey to each member of the GNSO Council to determine inter alia:
 - Does the GNSO Council section and the customised constituency sections of the ICANN web site effectively support the work of the GNSO Council?
 - Does the GNSO outreach via e-mail effectively support the work of the GNSO Council?
 - Do GNSO constituency meetings and other meetings during ICANN physical meetings effectively support the work of the GNSO Council?
- Make recommendations.

END