

## **ANNEX 5 – GNSO Guidance Process Manual**

### **1. GGP Manual – Introduction**

These guidelines and processes supplement the requirements for GGPs described in Annex D of the ICANN Bylaws [include link]. A GGP may be initiated by the GNSO Council when a request for input relating to gTLDs (either a new issue or in relation to previous policy recommendations) has been received from the ICANN Board or a gTLD issue has been identified by the GNSO Council that would benefit from GNSO Guidance, and it has determined that the intended outcome of the GGP is not expected to create new “Consensus Policy” recommendations including, but not limited to, any new contractual obligations for contracted parties (in which case a PDP would need to be initiated). However, the GGP may provide interpretation or assist in providing clarity with regards to the implementation of GNSO policy recommendations. The GGP should not be used as a tool to reopen a previously explored policy issue only because a constituency or stakeholder group was not satisfied with outcome of a previously held process on the same policy issue, unless the circumstances have changed and/or new information is available.

### **2. Planning for Initiation of a GGP**

Consistent with ICANN’s commitment to fact-based policy development, the GNSO and Staff are encouraged to provide advice in advance of a vote on the initiation of a GGP specifying any additional research, discussion, or outreach that should be conducted prior to or immediately following the vote on the initiation of a GGP. In cases where it concerns a specific request from the ICANN Board or any other SO/AC, the requestor is expected to make available a point of contact to provide further information or clarification in relation to the request to inform a vote on the initiation of a GGP if needed.

The GNSO Council should take into full account the resources available, both volunteers and staff, when making its decision on whether or not to initiate a GGP.

### **3. Minimum Requirements for a GGP Initiation Request**

The request to initiate a GGP, a GNSO Council member must submit a motion accompanied by a GGP scoping document to the GNSO Council, which is expected to include at a minimum the following information:

1. Name of Council member / SG / C
2. Origin of issue (e.g. board request)
3. Scope of the effort (detailed description of the issue or question that the GGP is expected to address)
4. Proposed GGP mechanism (e.g. WG, DT, individual volunteers)
5. Method of operation, if different from GNSO Working Group Guidelines
6. Decision-making methodology for GGP mechanism, if different from GNSO Working Group Guidelines
7. Desired completion date and rationale for this date

Any additional information that can facilitate the work on the GGP, such as information that should be considered and/or other parties that should be consulted, is encouraged to be provided as well.

#### **4. Initiation of a GNSO Guidance Process**

Any Council member can request that a GGP is initiated following the steps in section 3. The Council may initiate a GGP as follows:

The Council may only initiate the GGP by a vote of the Council. Initiation of a GGP requires a vote as set forth in Article X, Section 3(9) p in favor of initiating the GGP.

As part of its decision on the initiation of a GGP, the GNSO Council may include consideration of how ICANN's budget and planning can best accommodate the GGP and/or its possible outcomes, and, if applicable, how the proposed PDP is aligned with ICANN's Strategic Plan.

Furthermore, upon a formal request of the ICANN Board which is expected to include at a minimum a detailed description of the issue or question that the GGP is expected to address, the GGP will be automatically initiated, unless the GNSO Council votes against the initiation of a GGP as set forth in Article X, Section 3(9) r <sup>1</sup>. If the ICANN Board has not identified the proposed GGP mechanism and/or desired completion date in its request, the GNSO Council is expected to confirm these elements as soon as possible, if needed in consultation with the ICANN Board.

#### **5. GGP Outcomes and Processes**

Upon initiation of the GGP, the GNSO Council will form the GGP Team as outlined in the GGP scoping document. The GGP Team is required to review and become familiar with the GNSO Working Group Guidelines as well as the GNSO Guidance Process Manual.

Once formed, the GGP Team is responsible for engaging in the collection of information. If deemed appropriate or helpful by the GGP Team, the GGP Team may solicit the opinions of outside advisors, experts, or other members of the public. The GGP Team should carefully consider the budgetary impacts, implementability, and/or feasibility of its proposed information requests and/or subsequent recommendations.

The GGP Team should formally solicit statements from each Stakeholder Group and Constituency in the early stages of the GGP. Stakeholder Groups and Constituencies should ideally have 35 days at a minimum to complete such a statement from the moment that the statement is formally requested by the GGP Team. However, in certain circumstances such as an external deadline that affects the GGP Team to complete its work, this timeframe may be shorter.

The GGP Team is also encouraged to formally seek the opinion of other ICANN Advisory Committees and Supporting Organizations that may have expertise, experience or an interest in the GGP issue, as appropriate. In this regard, it is recommended that the GGP Chair consult with the GNSO Council Liaison to the GAC or equivalent regarding the best way to achieve early GAC participation or consultation with respect to the issues under consideration. Solicitation of opinions should be done in the early stages of the GGP.

The GGP Team is encouraged to establish communication in the early stages of the GGP with other departments, outside the policy department, within ICANN that may have an interest, expertise, or information regarding the implementability of the issue. The GGP Staff Manager<sup>2</sup> is responsible for serving as the intermediary between the GGP Team and the various ICANN departments. The GGP Team Chair may

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<sup>1</sup> A supermajority vote of the GNSO Council will be required to not initiate a GGP following a formal request from the ICANN Board.

<sup>2</sup> As per the ICANN Bylaws: "GGP Staff Manager" means an ICANN staff person(s) who manages the GGP'.

escalate to the Vice President of Policy if the GGP Team is of the opinion that such communications have been hindered through the involvement of ICANN policy staff. ICANN Staff may perform additional distinct roles for a GGP Team as requested and appropriate (see GNSO Working Group Guidelines for further details).

This section illustrates the types of outcomes that are permissible from a GGP. GGP Teams may make recommendations to the GNSO Council regarding, but not limited to:

- a. Advice to the ICANN Board
- b. Advice to other Supporting Organizations or Advisory Committees
- c. Best Practices
- d. Implementation Guidelines
- e. Agreement terms and conditions
- f. Technical Specifications
- g. Research or Surveys to be Conducted
- h. Budget issues
- i. Requests for Proposals
- j. Recommendations on future guidance or policy development process activities

At the same time, the GGP Team may also conclude that no recommendation is necessary.

The GGP Staff Manager is responsible for coordinating with the Chair(s) of the GGP Team to supervise and to carry out the GGP activities as necessary or appropriate, including, without limitation, making available the standard technical resources for the GGP Team, scheduling and attending GGP meetings, drafting and publishing GGP reports for public comment, and providing expertise where needed.

## **6. Publication of Proposed GNSO Guidance Recommendation(s) Report**

After collection and review of information, the GGP Team and Staff are responsible for producing a Proposed GNSO Guidance Recommendation(s) Report. This report should include at a minimum:

### Main body

- i. Executive Summary
- ii. GNSO Guidance Recommendation(s)
- iii. Statement of level of consensus for recommendation(s)
- iv. A statement on the GGP Team discussion concerning the impact of the proposed recommendations which could consider areas such as economic, competition, operations, privacy and other rights, scalability and feasibility.

### Appendices

- v. Information regarding the members of the GGP Team
- vi. Compilation of Stakeholder Group and Constituency Statements
- vii. Compilation of any statements received from any ICANN Supporting Organization or Advisory Committee
- viii. GGP analysis of public comments

The Appendix elements may be included in full in the appendices or may be referenced to information posted on an ICANN website or wiki (such as through a hyperlink) within the main body of the report .

The Proposed GNSO Guidance Recommendation(s) Report should be delivered to the GNSO Council and posted for a public comment period of not less than 30 days. If such a public comment period would coincide with an ICANN Public Meeting, the GGP Team is strongly encouraged to extend the public comment period for a minimum of seven (7) days. The GGP Team is encouraged to explore other means to solicit input than the traditional public comment forum such as, for example, the use of a survey which might allow for asking more targeted questions.

## **7. Preparation of Final GNSO Guidance Recommendation(s) Report**

At the end of the public comment period, the Staff Manager will prepare a summary and analysis of the public comments received for the GGP Team. Such a summary and analysis should be provided at the latest 21 days after the closing of the public comment period, absent exigent circumstances. The GGP Team shall review and take into consideration the public comments received. The GGP Team may update the Proposed GNSO Guidance Recommendation(s) Report if there are any recommendations that require modification to address comments received through public comment. The GGP Team is not obligated to include all comments received during the comment period in the updated Proposed GNSO Guidance Recommendation(s) Report, including each comment made by any one individual or organization.

The GGP Team is expected to deliberate as appropriate to properly evaluate and address comments received during the public comment period. This should include the careful consideration and analysis of the public comments; explaining the rationale for agreeing and disagreeing with the different comments received, and, if appropriate, how these will be addressed in the report of the GGP Team. Following the review of the comments received and, if required, additional deliberations, the GGP Team is expected to produce a Final Report for transmission to the Council. The analysis of the comments by the GGP Team is expected to be included or referenced as part of the Final GNSO Guidance Recommendation(s) Report.

While the Final Recommendation(s) Report is not required to be posted for public comment, in preparing the Final Recommendation(s) Report, the GGP Team should consider whether the Final Recommendation(s) Report should be posted for public comment as a [Draft] Final Recommendation(s) Report, with the goal of maximizing accountability and transparency with regards the GGP, especially when substantial changes have been made compared to the contents of the Proposed Recommendation(s) Report. When posted for Public Comment, Staff should consider translating the executive summaries of the Proposed Recommendation(s) Report and Draft Final Recommendation(s) Report into the six UN languages, to the extent permissible under the ICANN translation policy and the ICANN budget, though the posting of any version in English is not to be delayed while translations are being completed. Upon completion of the Public Comment period, if any, and incorporation of any additional comments identified therein, or if no further comment period is necessary, the Final Recommendation(s) Report is to be forwarded to the GNSO Council to begin the GNSO Council deliberation process.

In addition to any required public comment periods, the GGP Team may seek public comment on any item that the GGP Team notes it will benefit from further public input. The GGP Team does not have to seek approval from the GNSO Council to seek public comment on interim items. The minimum duration of a public comment period that does not concern the Proposed Recommendation(s) Report is twenty (21) days.

Each recommendation in the Final Report should be accompanied by the appropriate consensus level designation (see section 3.6 – Standard Methodology for Making Decisions in the GNSO Working Group Guidelines).

## **8. Council Deliberations**

The GNSO Council is strongly encouraged to allow sufficient time for Stakeholder Group, Constituency and Councilor review of the Final GNSO Guidance Recommendation(s) Report prior to a motion being made to formally adopt the Final Recommendation(s) Report. The GNSO Council is required to take formal action on a Final Recommendation(s) Report in a timely manner, and preferably no later than the second GNSO Council meeting after the report is presented. At the request of any Council member, for any reason, consideration of the Final Recommendation(s) Report may be postponed for no more than one (1) meeting, provided that such Council member details the rationale for such a postponement. Consideration of the Final Recommendation(s) Report may only be postponed for a total of one (1) meeting, even if multiple Council members request postponement. The GNSO Council may, if deemed appropriate, schedule a separate session with the GGP Team to discuss the Final Report and ask any clarifying questions that might arise.

The GNSO Council is expected to vote on the recommendations contained in the Final Recommendation(s) Report. Approval of the GGP recommendations contained in the Final Recommendation(s) Report requires an affirmative vote meeting the thresholds set forth at Article X, Section 3(9) r<sup>3</sup>. If this voting threshold is not met, the vote fails and the GGP is considered complete, unless the GNSO Council decides to ask the GGP Team to reconsider its recommendations in light of the GNSO Council vote.

In the event that the Final Recommendation(s) Report includes recommendations that did not achieve the consensus within the GGP Team, the GNSO Council should deliberate on whether to adopt them or remand the recommendations for further analysis and work. Although the GNSO Council may adopt all or any portion of the recommendations contained in the Final Recommendation(s) Report, it is recommended that the GNSO Council take into account whether the GGP Team has indicated that any recommendations contained in the Final Report are interdependent. The GNSO Council is strongly discouraged from itemizing recommendations that the GGP Team has identified interdependent or modifying recommendations wherever possible. In the event the GNSO Council expresses concerns or proposes changes to the GGP recommendations, it must pass these concerns or recommendations for changes back to the respective GGP Team for input and follow-up.

## **9. Preparation of the Board Report**

If the GNSO Guidance Recommendations contained in the Final Recommendation(s) Report are approved by the GNSO Council, the GNSO Council may designate a person or group responsible for drafting a Recommendations Report to the Board. If feasible, the Draft Recommendations Report to the Board should be submitted to the Council in time for consideration at the next GNSO Council meeting following adoption of the Final Recommendation(s) Report. Staff should inform the GNSO Council from time to time of the format requested by the Board. These GNSO Council Reports supplement any Staff Reports that may highlight any legal, implementability, financial, and other operational concerns related to the GNSO Guidance recommendations contained in the Final Recommendation(s) Report. In order to enhance ICANN's accountability and transparency, Staff is encouraged to publish its Staff Reports with minimal redactions wherever possible, without jeopardizing information that may be protected under attorney/client or other legal privileges.

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<sup>3</sup> Approval of GGP recommendations requires a GNSO Supermajority vote as defined in the GNSO Operating procedures and/or ICANN Bylaws.

## **10. Termination or Suspension of a GGP Prior to Final Recommendation(s) Report**

The GNSO Council may terminate or suspend a GGP prior to the publication of a Final Recommendations Report on the recommendation of the GGP Team and a majority vote of the Council. Termination or suspension could be considered if events have occurred since the initiation of the GGP that have rendered the GGP moot, no longer necessary or another process such as a PDP is deemed more appropriate.

The GNSO Council will prepare a formal report on the proposed termination or suspension of a GGP outlining the reasons for the proposed action, current status of the GGP, and the points of view represented in the GGP Team and the consensus status, as applicable (as defined by the GNSO Working Group Guidelines) and expected next steps, if any. If the GGP was initiated in response to a request from the ICANN Board, the GNSO Council will share this formal report with the ICANN Board for its information.

## **11. Miscellaneous**

This Manual may be updated by the GNSO Council from time to time following the same procedures as applicable to amendments to the GNSO Operating Rules and Procedures.

In the event of any inconsistencies between the ICANN Bylaws or this Manual, the terms of the ICANN Bylaws shall supersede.

**\*\*END OF ANNEX 5\*\***