Dear members of the Acountability and Transparency Review Team (2),

The GNSO Council thanks you for the outcome-oriented analysis and recommendations in the ATRT2 Draft Recommendations of 21 November, 2013. We particularly appreciate the time and care that went into these recommendations, the commissioning of useful research and, especially, the efforts made by the ATRT2 and its leadership to promote awareness and dialogue about the recommendations at the Buenos Aires meeting.

The Council’s input focuses on recommendations regarding the GNSO PDP. Broadly, we strongly support the call for broader and more active working group participation and earlier involvement of the GAC, and will work hard to implement final recommendations on these issues.

**New recommendations arising from issues not addressed by ATRT1 Recommendations**

**10.1 on developing funded options for professional facilitators to help GNSO PDP Working Groups**

While some Councilors supported this suggestion, others were concerned that facilitators may not always be appropriate in the multi-stakeholder model. Broadly, we believe this is an option that could be considered in the context of the ATRT2’s recommendation to develop explicit guidelines for when to use facilitators. Agreement should be elicited by Working Group participants to use facilitators on a case by case basis, and with a clear understanding of facilitators’ roles.

**10.1 on face to face meetings during GNSO PDPs**

We support this recommendation and the development of guidelines for when F2F meetings may be required and justified. However, we do note that there is a variety of ability amongst Working Group participants to travel to F2F meetings. Many volunteers cannot leave work or family to do so, for example. We suggest that if intercessional F2F meetings are used more often that ICANN consider adopting the IETF approach that agreements reached during F2F meetings are then subject to consideration by mailing list members.

**10.1 on GNSO and the wider ICANN community developing ways to make the GNSO PDP process more time-effective**

As with our comments on item 10.4 below, we are concerned that speed not be the main metric used to determine the performance of the GNSO. There is not one but three fundamental ways to judge PDP performance: time, participativeness and agreement. Time measures only how long it took to get to a policy; the second two are effectively proxy measures for its quality. Stressing too much the most obvious performance variable could have the unintentional consequence of sacrificing quality. Further, increasing the pressure of time can result in forced compromises that quickly fall apart or result in participants end-running to the Board, a phenomenon the report identifies. This undermines the legitimacy of the whole process.

We suggest this recommendation be revised to stress more that ‘time-effective’ encompasses efficient use of participants’ time – including preparation for and chairing of calls and follow-up activities, etc. – rather than focusing on a single, quantifiable metric that can draw attention away from other qualities.

**10.2 on the GAC, with the GNSO, developing ways to input to PDP Working Groups**

We strongly support this recommendation and are eager to work with the GAC on ways to implement it.

**10.3 on the Board and GNSO chartering a strategic initiative to broaden participation in GNSO PDPs**

We broadly support this recommendation and welcomed the detailed quantitative analysis provided in support of the need to broaden participation. We do also note staff’s observation that in some cases input to public comments may appear to be from, for example, the US but has been submitted by a US-based individual on behalf of a peak organization that consulted more widely.

Nonetheless, there is clearly a need to both broaden and deepen participation. Some of our councilors suggest that as well as outreach to increase participation from outside of ICANN, we should also do ‘in reach’ to deepen participation by individuals already involved in ICANN but who have never participated in a Working Group. We ask that the ATRT2 may consider this suggestion.

**10.4 on the Board stating a process for setting gTLD policies when the GNSO ‘cannot come to closure on a specific issue within a specified time-frame’.**

We share the concerns stated by others that the couching of this recommendation may unwittingly undermine the multi-stakeholder model in ICANN. Policy-making can take longer than is predictable or desirable, but nonetheless be effective in its deliberativeness, output and degree of support. This recommendation seems to perpetuate a belief that the GNSO – the engine of gTLD policy development and the only part of ICANN driven by carefully balanced stakeholder decision-making – is too slow and argumentative. That belief can drive some ICANN participants to go around the GNSO and straight to the Board, undermining the multi-stakeholder process and ICANN’s *raison d’etre.* While Board deadlines can sometimes help overcome intractable differences, it’s not clear how to ensure constructive negotiation within the PDP without later recourse to the Board or GAC.

This recommendation seems to contradict the research report finding that there is both a conflict but ultimately a ‘sweet spot’ to be found between policy-making being sufficiently participatory and speedy. We suggest that this recommendation be revised to help the GNSO find that sweet spot – which will change from one issue to the next and is not a ‘one size fits all’ amount of pre-specified time. For example, the recommendation could be re-drafted to suggest the Board interact formally or informally with the GNSO to find out more about PDPs that appear to be going too slowly; to find out if that is indeed the case, and to constructively offer advice or encouragement to assist.

Recommendation 10.4 also says the Board should note under what conditions it believes it may alter PDP recommendations after formal Board acceptance. We support this part of the recommendation.

Recommendation 10.4 also says there should be an additional step in the PDP Comment Process that allows those whose comments have been synthesized improperly to request changes. We support this recommendation, while noting it will add some time to the process. Perhaps it could be implemented on an ‘if/then’ basis, i.e. inserting an opportunity for commenters to raise their initial concerns to trigger taking the additional step of requesting changes to the summary. However, we also suggest replacing the term ‘improperly’ with ‘incorrectly’ or ‘wrongly’, as the word ‘improper’ has connotations of wrongdoing rather than inaccuracy, which don’t seem relevant here.

**Summary of work the GNSO is already doing**

**…**

4.       Summarise if appropriate

Full text of the report is here: [http://www.icann.org/en/about/aoc-review/atrt/draft-recommendations-15oct13-en.pdf](http://www.icann.org/en/about/aoc-review/atrt/draft-recommendations-15oct13-en.pdf" \t "_blank)