

8 June 2018

High-level notes taken at the meeting of the ICANN Board and GNSO Council on 5 June 2018

Heather Forrest, Donna Austin & Rafik Dammak GNSO Council Chairs

To: Cherine Chalaby, Chair, ICANN Board of Directors

Dear Cherine,

Please find attached high-level notes taken at the meeting of the ICANN Board and GNSO Council on 5 June 2018. The GNSO Council appreciates the support that the Board has provided to date as we continue to explore options in response to the Board's adoption of a Temporary Specification on 17 May 2018.

As highlighted in the notes, the primary purpose of the meeting was to answer questions from the Board and Council where possible, and to identify who and when remaining questions could be answered. In particular, the following were noted in the high-level notes, discussion and chat for subsequent follow-up by the Board:

SCOPE:

(5) The Temporary Specification reasoning for including WHOIS as a security and stability issue is based on the new ICANN Bylaws; at time of contract signing, that wasn't the case. Doesn't that open a possible avenue to challenge it altogether? Wouldn't phasing the EPDP allowing a quick Consensus Policy made of uncontroversial parts of the Temp Spec increase the assurances that this wouldn't hamper ICANN Org's compliance ability?

(8) The Temporary Specification covers a number of additional policies that go beyond the requirements of the RA and RAA as they relate to Registration Data Directory Services. How does the Board believe the GNSO Council should handle these areas of overlap?

(9) Does ICANN have/will ICANN develop a list of policies and contractual clauses that are impacted by the temporary specification (beyond what is currently identified in the Annex)? This would help with scoping the work.

(11) How does the Board expect the EPDP to follow and/or to incorporate ICANN's ongoing legal strategy and the decisions of EU country courts?

PARTICIPATION:

(3) What is the Board's expectation with regard to the Council's ongoing communication with Board/involvement of Board during the scoping process? (In particular here the notes reflect our discussion on the need for instant two-way consultation between the Board and the GNSO

Council. As follow-up questions, it would be helpful if the Board could consider its ability and willingness to appoint a liaison to the EPDP to facilitate this communication on ongoing basis, and further reflect on the role of the Board once the PDP is established and working.)

For each of the above may we please receive responses as soon as possible, or a target date for your response. The GNSO Council will hold an Extraordinary Meeting on 12 June. As noted during our meeting, our ability to progress discussions on next steps depends on receiving responses to these questions in as timely a manner as possible. If it is possible to receive substantive responses to any of the above before our upcoming meeting on 12 June, that would aid our work considerably.

We welcome the opportunity to maintain an open channel of communication with the Board on the Council's next steps.

Best regards,

Heather Forrest, GNSO Chair
Donna Austin, GNSO Council Vice Chair
Rafik Dammak, GNSO Council Vice Chair