

10 January 2019

GNSO Council Response to Board letter concerning the status of the Expedited Policy Development Process for gTLD Registration Data

Dear Cherine and ICANN Board Members:

On behalf of the GNSO Council, we would like to thank you for your letter of 14 November 2018.

As you may be aware, the GNSO Council, as the manager of the EPDP, is tracking the EPDP Team's work closely through weekly updates that are provided by the GNSO Council liaison to the EPDP (see <https://community.icann.org/x/mRxpBQ>) as well as updates from the EPDP Council liaison during monthly Council meetings. In addition, several current GNSO Councilors are primary and alternate members of the EPDP WG.

In relation to your specific questions:

- Board question: **Deadlines** - The Board notes that the EPDP team intends to issue its initial report by 19 November 2018, with a final report to be submitted to the GNSO Council by 1 February 2019. Does the GNSO Council foresee any risks of these deadlines not being met, and if so, is there anything the Board can do to help?

As you are aware, the EPDP Team published its Initial Report for public comment on 21 November. The EPDP Team advised the GNSO Council of the minor delay that occurred in relation to the originally-planned publication date but confirmed that the delay would be limited to days, not weeks. As such, the Council is confident that the EPDP Team is committed to respecting the timeline and work plan it has developed (see <https://community.icann.org/x/2opHBQ>). However, the Council is mindful of the significant work ahead to complete Phase 1 in a timely manner, including the review of public comments received in response to the public comment forum which closed 21 December. The EPDP Team has scheduled a third face-to-face meeting, which will take place from 16-18 January 2019 in Toronto with the aim of finalizing its review of public comments and finalizing its report for submission to the GNSO Council. The GNSO Council will be closely monitoring the work of the EPDP in January to ensure timelines are met and workplans followed.

- Board question: **Back-up Plans** - The Board recommends the development of back-up plans and would very much appreciate getting a better understanding of any such plans the GNSO Council may be contemplating. More specifically, what are the thoughts of the GNSO Council on next steps, consistent with the ICANN Bylaws and ICANN's contractual agreements with Contracted Parties, in the event the community has not reached agreement on a consensus policy prior to the expiration of the Temporary Specification?

At this stage, the GNSO Council believes the EPDP Team is doing its utmost under challenging circumstances to meet its timeline and come to agreement on a consensus policy recommendation prior to the expiration of the Temporary Specification. As noted above, the GNSO Council will continue to closely monitor the January work of the EPDP as it consolidates the Initial Report public comments and works to reach consensus around a Final Report. Following the January face-to-face meeting of the EPDP, if it appears the group is unlikely to meet projected timelines, the GNSO Council will consider what alternative steps are warranted.

Further, the GNSO Council has noted the EPDP Team’s Initial Report does contemplate that there may be a need to consider:

“...how to avoid a gap between the adoption of these policy recommendations by the ICANN Board and the subsequent implementation, noting the impending expiration of the Temporary Specification requirements. The EPDP Team is considering various options, such as the adoption of an interim policy for a set timeframe or recommending that the Temporary Specification requirements remain in place until the completion of implementation of these policy recommendations. The EPDP Team expects to obtain further guidance from ICANN Org on the options in this regard and make a recommendation accordingly in the Final Report.”

The GNSO Council looks forward to further community discussion on these various options and welcomes any consensus recommendations that we may receive from the EPDP WG. However, while it may become necessary in short order to consider a possible back-up plan or an implementation bridge, the Council would like to reiterate that any such consideration should not distract from or undermine the ongoing substantive work of the EPDP. As with all efforts to reach consensus, compromises will be necessary in this process, and we must avoid creating an expectation that might distract from or undermine the hard work and difficult decisions facing the working group.

The Council appreciates the Board asking how it may be of assistance. We consider this engagement and open dialogue with the Board extremely useful and would like to request this to continue. As the EPDP Team progresses, there may be a need for further dialogue and consultation, especially once the EPDP Team has finalized its Report. Similarly, the EPDP Team’s work on the Temporary Specification is only the first phase of its work – the Council hopes that it can count on the Board’s continued support as the EPDP Team embarks on the second phase of its work which includes, amongst others, consideration of a system for standardized access to non-public registration data.

Finally, as we enter 2019, the GNSO Council recognizes that the EPDP WG members, ICANN staff, community liaisons and ICANN Board liaisons have all dedicated significant time, energy and resources to this unprecedented effort in a very compressed and challenging timeframe. As the manager of the GNSO PDP process, the Council reiterates our appreciation of these substantial efforts and we encourage all participants to continue working constructively together to deliver a consensus recommendation that the Council can approve and send to the Board in a timely manner.

Should you have any further questions, please do not hesitate to reach out to us at your earliest convenience.

Sincerely,

Keith Drazek (GNSO Chair)
Pam Little (GNSO Council Vice-Chair, Contracted Parties House)
Rafik Dammak (GNSO Council Vice-Chair, Non-Contracted Parties House)