Minutes of the GNSO Council Meeting Part 1 27 October 2021

Agenda and Documents

Coordinated Universal Time: 19:00 UTC: https://tinyurl.com/3u3fjdff

12:00 Los Angeles; 15:00 Washington; 20:00 London; 21:00 Paris; 22:00 Moscow; (Friday) 05:00 Melbourne

List of attendees:
Nominating Committee Appointee (NCA): **– Non-Voting** – Olga Cavalli
Contracted Parties House
Registrar Stakeholder Group: Pam Little, Greg Dibiase, Kristian Ørmen
gTLD Registries Stakeholder Group: Maxim Alzoba, Kurt Pritz, Sebastien Ducos
Nominating Committee Appointee (NCA): Tom Dale
Non-Contracted Parties House
Commercial Stakeholder Group (CSG): Marie Pattullo, Mark Datysgeld, Philippe Fouquart, Osvaldo Novoa, John McElwaine, (Flip Petillion apologies, Temporary Alternate Susan Payne), Susan Payne
Non-Commercial Stakeholder Group (NCSG): Juan Manuel Rojas, Stephanie Perrin, Tatiana Tropina, Wisdom Donkor, Tomslin Samme-Nlar, Farell Folly
Nominating Committee Appointee (NCA): Carlton Samuels
GNSO Council Liaisons/Observers :
Cheryl Langdon-Orr– ALAC Liaison
Jeff Neuman– GNSO liaison to the GAC
Maarten Simon – ccNSO observer

Guests:
Antonietta Mangiacotti, ICANN Org

ICANN Staff
David Olive -Senior Vice President, Policy Development Support and Managing Manager, ICANN Regional
Marika Konings – Vice President, Policy Development Support
Mary Wong – Vice President, Strategic Community Operations, Planning and Engagement
Julie Hedlund – Policy Director
Steve Chan – Senior Director
Berry Cobb – Policy Consultant
Emily Barabas – Senior Manager, Policy Development Support
Ariel Liang – Policy Senior Specialist (apologies)
Caitlin Tubergen – Policy Director
Nathalie Peregrine – Manager, Operations Support
Terri Agnew - Operations Support - GNSO Lead Administrator
Julie Bisland – GNSO SO/AC Support

Zoom Recording

Transcript

Item 1: Administrative Matters

1.1 - Roll Call

Philippe Fouquart, GNSO Chair, welcomed all to the October 2021 Council meeting.

1.2 - Updates to Statements of Interest.

There were no updates to the Statements of Interest.

1.3 - Review / Amend Agenda

The agenda was accepted as presented.

1.4 - Note the status of minutes for the previous Council meetings per the GNSO Operating Procedures:

Minutes of the GNSO Council meeting on 19 August 2021 were posted on 04 September 2021.

Minutes of the GNSO Council meeting on 23 September 2021 were posted on 08 October 2021.

Item 2: Opening Remarks / Review of Projects & Action List

2.1 - Review focus areas and provide updates on specific key themes / topics, to include review of Projects List and Action Item List.

In the interest of time, councilors were referred to the email update circulated on the Council mailing list on 17 October 2021.

Item 3: Consent Agenda

- 3.1 - Approval of the GNSO Council liaison to the New gTLD Subsequent Procedures Operational Design Phase - Jeff Neuman (SOI)
- 3.2 - Approval of the GNSO liaison to the Governmental Advisory Committee - Jeff Neuman (SOI)

The GNSO Council voted unanimously in support of the Consent Agenda item.

Vote results

 Action items:
- The GNSO Council instructs the GNSO Secretariat to communicate that Jeff Neuman has been appointed as the GNSO Council Liaison to the SubPro ODP to the ICANN org ODP team.
- The GNSO Council instructs the GNSO Secretariat to inform the nominated candidate that he has been selected to fulfil the responsibilities defined in the EoI.
- The GNSO Council requests the GNSO Secretariat to send a response to those applicants who were not nominated, thanking them for their interest and encouraging them to apply for future opportunities as they arise.
- The GNSO Council leadership team will inform the GAC leadership team accordingly, and will coordinate with Jeffrey Neuman as well as the GAC leadership team and GAC Secretariat on next steps and the continued successful implementation of this role.

Item 4: COUNCIL VOTE - EPDP Phase 2A Final Report

Pam Little, GNSO Council Vice Chair, seconded by **Tatiana Tropina, GNSO Council Vice Chair,** submitted the motion for Council to approve the EPDP Phase 2A Final Report.

WHEREAS

1. On 17 May 2018, the ICANN Board adopted the Temporary Specification for gTLD Registration Data ("Temporary Specification") pursuant to the procedures in the Registry Agreement and Registrar Accreditation Agreement concerning the establishment of Temporary Policies;

2. Following the adoption of the Temporary Specification, and per the procedure for Temporary Policies as outlined in the Registry Agreement and Registrar Accreditation Agreement, a Consensus Policy development process as set forth in ICANN's Bylaws needs to be initiated immediately and completed within a one-year time period from the implementation effective date (25 May 2018) of the Temporary Specification;

3. The GNSO Council has had a number of discussions about next steps to clarify issues around scope, timing and expectations, including a meeting between the GNSO Stakeholder Group and Constituency Chairs on 21 May 2018, the Council meeting on 24 May 2018, a meeting between the ICANN Board and the GNSO Council on 5 June 2018 and an extraordinary GNSO Council meeting on 12 June 2018;

4. Subsequently, the GNSO Council agreed to form a drafting team, consisting of Council leadership and interested Council members, to develop the EPDP Initiation Request and EPDP Team Charter. The drafting team submitted the proposed EPDP Initiation Request and EPDP Team Charter to the GNSO Council on 19 July 2018;

5. The GNSO Council approved the EPDP Initiation Request (https://gnso.icann.org/sites/default/files/file/field-file-attach/temp-spec-gtld-rd-epdp-initiation-request-19jul18-en.pdf) and the EPDP Team Charter (https://gnso.icann.org/sites/default/files/file/field-file-attach/temp-spec-gtld-rd-epdp-19jul18-en.pdf) on 19 July 2018;

6. The EPDP Team divided the work into two phases; Phase 1 completed with the adoption of the EPDP Phase 1 Final Report on 4 March 2019, at which point the GNSO Council indicated its non-objection, as required per the EPDP Team Charter, for the EPDP Team to commence work on a System for Standardized Access/Disclosure to Non-Public Registration Data ("SSAD") as well as other topics identified in Phase 2 of the Charter and/or carried over from Phase 1 (priority 2 items);

7. The Phase 2 Final Report noted that "As a result of external dependencies and time constraints, this Final Report does not address all priority 2 items". It furthermore noted that the EPDP Team would "consult with the GNSO Council on how to address the remaining priority 2 items";

8. Following these consultations, the GNSO Council adopted on 21 October 2020 instructions for the EPDP Phase 2A to address the remaining priority 2 items, namely 1) differentiation between

legal and natural person registration data, and 2) feasibility of unique contacts to have a uniform anonymized email address;

9. The EPDP Team commenced its deliberations on Phase 2A on 17 December 2020 (see https://community.icann.org/x/VojzC);

10. The EPDP has followed the prescribed EPDP steps as stated in the Bylaws, including the publication of an Initial Report for public comment (see https://www.icann.org/public-comments/epdp-phase-2a-initial-report-2021-06-03-en) on 3 June 2021, resulting in a Final Report delivered on 3 September 2021 with an updated version containing all minority statements submitted on 13 September 2021;

11. All recommendations received the consensus support of the EPDP Phase 2A Team but the Chair's statement indicated that "it's important to note that some groups felt that the work did not go as far as needed, or did not include sufficient detail, while other groups felt that certain recommendations were not appropriate or necessary";

12. The GNSO Council has reviewed and discussed the Final Report and its recommendations.

RESOLVED

1. The GNSO Council adopts and recommends to the ICANN Board of Directors the adoption of the EPDP Phase 2A recommendations #1 – 4.

2. The GNSO Council requests ICANN org to convene an Implementation Review Team to work on the implementation of these recommendations. The Implementation Review Team will be tasked with assisting ICANN org in developing the implementation details for the EPDP recommendations, evaluating the proposed implementation of the recommendations as approved by the Board, and working with ICANN org to ensure that the resultant implementation conforms to the intent of the approved recommendations. The Implementation Review Team shall operate in accordance with the Implementation Review Team Principles and Guidance approved by the GNSO Council in June 2015.

3. The GNSO Council extends its sincere appreciation to the Chair, Keith Drazek, Vice Chair, Brian Beckham, EPDP Team members, alternates and support staff of the EPDP Team for their tireless efforts to deliver this Final Report.

Philippe Fouquart, GNSO Chair, provided background to the motion, noting that the Final Report was submitted on the 03 September 2021 and that all minority statements were subsequently submitted on the 13th September 2021. The GNSO Council September meeting offered the opportunity for Council discussion and further exchanges with councilors' stakeholder groups (SGs) and constituencies (C) to prepare for a vote at the October Council meeting. Philippe further recognised that a number of groups would have liked the Final Report recommendations to go further and that others considered the same recommendations unnecessary. He reminded councilors of the EPDP P2A Chair's, Keith Drazek, statement that the Final Report constitutes a compromise that is the maximum that could have been achieved by this group at this time. He emphasised the role of the GNSO Council as manager of the

Policy Development Process (PDP), and not as one to review the discussions and decisions of the PDP team. He also acknowledged that improvements could have been made in regards to communication and interaction.

Kurt Pritz, GNSO Registry Stakeholder Group (RySG), GNSO Registry Stakeholder Group (RySG), commented on the issue of scope in regard to Recommendation 1. He stated that the RySG, having raised the scope issue, accepted the Leadership determination that Recommendation 1 was within the EPDP Charter's scope and was prepared to vote. He went on to state that the RySG did not find the points made in support of the determination in the Chair's email to be persuasive and laid out the arguments to contest each point. He indicated that the more important point is that requests by any stakeholder group for a Council determination on an issue should be honored by having a Council discussion rather than an immediate determination and that such a discussion fits within the Council's role as policy manager.

Philippe Fouquart, GNSO Chair, thanked Kurt for his comments, acknowledging the points raised were valid and that there was an opening now to discuss how to address the issue of scope in the future without creating an administrative burden.

Maxim Alzoba, RySG, suggested using a tracking tool to ensure communication is transparent and exchanges recorded to allow for easier decision making.

Greg Dibiase, GNSO Registrars Stakeholder Group (RrSG), raised that whilst the RrSG does not agree with everything in the Final Report, it recognises that the team came to an appropriate result. In his personal capacity as councilor, he added that lack of agreement in one group should not deter from the advances made in other groups and therefore in the multistakeholder model overall. He encouraged all to keep a positive perspective.

Philippe Fouquart, GNSO Chair, added that in the Internet Service Providers and Connectivity Providers constituency (ISPCP), the same appreciation of the results of the Final Report recommendations existed, but overall support of the process had prevailed.

John McElwaine, Intellectual Property Constituency (IPC), recommended for future PDP Final Reports where disagreements lie, that recommendations be voted on individually rather than as a package. He added that this would allow for suggestions for follow up actions.

Pam Little, GNSO Council Vice Chair, reminded councilors of the amendment to resolved clause 1 [accepted](#) as friendly by the seconder of the motion, Tatiana Tropina, GNSO Council Vice Chair.

GNSO councilors voted in support of the motion which met the required supermajority threshold. **Juan Manuel Roja, Non Commercial Stakeholder Group (NCSG)** voted via [email](#) due to Zoom connectivity issues, before the end of the vote.

There were five objections to the motion:

- Carlton Samuels, Non Contracted Party House (NCPH) NomCom Appointee (NCA): statement
- John McElwaine and Susan Payne (temporary alternate for Flip Petillion), IPC: statement
- Marie Pattullo and Mark Datysgeld, Business Constituency (BC): statement

Vote results

Action Items:

● The GNSO Council requests ICANN org to convene an Implementation Review Team to work on the implementation of these recommendations.
● The GNSO Council extends its sincere appreciation to the Chair, Keith Drazek, Vice Chair, Brian Beckham, EPDP Team members, alternates and support staff of the EPDP Team for their tireless efforts to deliver this Final Report.

Item 5: COUNCIL VOTE - Revised GNSO Councilor Job Description for the Nominating Committee

Pam Little, GNSO Council Vice Chair, seconded by **Tomslin Samme Nlar, Non Commercial Stakeholder Group (NCSG),** submitted a motion for Council to approve the revised GNSO Council Job Description for the Nominating Committee.

Whereas,

1. Section 11.3 of the ICANN Bylaws prescribes the number of Council representatives selected from each GNSO Stakeholder Group and three representatives selected by the Nominating Committee.
2. The Contracted Parties House consists of three members from the Registries Stakeholder Group, three members from the Registrars Stakeholder Group, and one voting member appointed by the ICANN Nominating Committee for a total of seven voting members.
3. The Non Contracted Parties House consists of six members from the Commercial Stakeholder Group, six members from the Non-Commercial Stakeholder Group, and one voting member appointed by the ICANN Nominating Committee to that House for a total of thirteen voting members.
4. The Nominating Committee reviews applications and selects candidates, taking into account the criteria or guidance provided by the GNSO Council.
5. The GNSO Council is invited on an annual basis to review the job description and criteria contained in order to better assure that the Nominating Committee selects appointees that is consistent with the intent of the Bylaws in furthering the Council's roles and responsibilities as the manager of the policy development process of the GNSO.

6. The GNSO Council has elected to make incremental changes to the job description each year when invited.
7. Considering that each GNSO Stakeholder Group and Constituency is represented on the GNSO Council, the role of the Nominating Committee Appointees on the GNSO Council, and the importance of diversity, the Council discussed the need to revise the job description to reflect a preference for appointees that are not currently affiliated with any Stakeholder Group or Constituency, recognizing that this may not always be feasible.

Resolved,

1. The GNSO Council approves the revised GNSO Councilor job description for use by the 2022 Nominating Committee.
2. The GNSO Council requests that the GNSO Secretariat provide the updated job description to the ICANN Org staff supporting the Nominating Committee in a timely manner.

Due to the additional comments received by the IPC and the RySG, GNSO Council leadership decided to change this item from a vote to a discussion. Motion submitter **Pam Little, GNSO Council Vice Chair**, and seconder, **Tomslin Samme Nlar, NCSG**, accepted to withdraw the motion.

Philippe Fouquart, GNSO Chair, reminded councilors that a revised job description had been circulated on the GNSO Council mailing list on the 13 September 2021. He mentioned that the main point of the ensuing discussion had been the GNSO Council leadership's request that the Nominating Committee (NomCom) preference be towards non-affiliated candidates as the NomCom Appointee will serve as a voting councilor, and as such, the balance of Council needs to be considered. A decision by Council will need to be made at the November 2021 Council meeting, as the NomCom will initiate its recruiting process shortly after.

Pam Little, GNSO Council Vice Chair, noted that putting forward a motion for topics such as this one was not habitual, as they were normally discussed on the Council mailing list. The motion here represented GNSO Council leadership's intention to promote both the independence of the role and the diversity of the candidates to be considered as well as taking into account the very delicate balance within each stakeholder group. She praised the high level of knowledge brought to the Council table by previous and current NCAs and clarified that "non affiliated" did not apply to past affiliations, but to affiliations held by NCAs in addition to their NCA role. In this situation only could there be the risk of a conflict of interest in a deciding vote. She admitted that combining an expected level of knowledge with a non affiliated requirement could be complicated.

Philippe Fouquart, GNSO Chair, thanked Pam, adding that a solution could be to convene a small team before the November Council meeting.

Tatiana Tropina, **in her capacity as NCSG councilor,** expressed support for Pam's suggestion in the context of a vote in favour of one stakeholder group over another. She added that the non affiliated requirement was not exclusive to the GNSO as the ccNSO had put forward a similar one regarding ccTLD managers.

Maxim Alzoba, RySG, raised the concern of additional restrictions negatively impacting the available pool of volunteers.

Susan Payne, IPC Temporary Alternate for Flip Petillion, thanked Council leadership for accommodating the discussion. She added that a consequence of adding requirements could be to disincentivize applicants who are affiliated with structures. She also mentioned that the combination of independence and deep knowledge of the GNSO was a near impossible one. The IPC believes that moving forward with this requirement would cut out of the pool the better qualified candidates for the position. Clarifying the need for affiliation neutrality in the job description would be a better solution to the issue. Susan added that having a demonstrable ability to guide policy development, being a consensus builder were preferable traits to highlight over non affiliation.

Olga Cavalli, NomCom Appointee (NCA), agreed with the possibility that adding new restrictions would be dissuasive to potential candidates.

Mark Datysgeld, BC, raised that the neutrality of the role and of the candidate was of the NomCom's remit and that adding the requirement of non affiliation would be a hindrance. In order to have sufficient knowledge to qualify for the role, being, or having been, affiliated is almost unavoidable.

Pam Little, GNSO Council Vice Chair, clarified that the aim of the updates to the job description was in no way to exclude potential candidates but rather to correct possible imbalances.

Philippe Fouquart, GNSO Chair, encouraged all councilors interested in furthering the discussion to volunteer for the small team effort to be announced shortly.

[Motion withdrawn](#)

Action Item: none

Item 6: COUNCIL DISCUSSION - GDS Update on the Framework for the Policy Status Report (PSR) Framework on the UDRP

Philippe Fouquart, GNSO Chair, reminded councilors that there were two goals; reach agreement on the purpose of the PSR as well as whether it is beneficial to Council's decision making process.

Antonietta Mangiacotti, ICANN Org, [presented](#) on the Framework for the Policy Status Report (PSR) Framework on the UDRP. She provided a brief overview of the GNSO Council comments forwarded to ICANN Org following the GDS update to Council on a proposed outline for the report. She then updated on scope, public comment period and next steps. Regarding the GNSO Council comments on the presentation provided by ICANN org on the proposed framework for the UDRP PSR during the Council's 23 September meeting, it was noted in the GNSO Council comments that counterbalancing proposals from the community for improvements to the UDRP were missing from the proposed framework for the UDRP PSR presentation. Also missing from the proposed framework for the UDRP PSR presentation as noted in the GNSO Council comments was knowledge about the UDRP, where it comes from and how it works. ICANN org appreciates the time spent by the GNSO Councilors to provide their input on the proposed framework for the UDRP PSR presentation provided by ICANN org during the Council's September meeting, and ensured the GNSO Council that their comments will be taken onboard for the UDRP PSR.

John McElwaine, IPC, asked for further clarification regarding the datasets and the limited time frame in which to gather the data.

Antonietta Mangiacotti, ICANN Org, explained that there is readily available data collected for other reviews and projects, but that suggestions as to other sources were welcome.

Susan Payne, IPC Temporary Alternate to Flip Petillion, inquired as to whether the current updates would be aggregated to the proposal made to Council during the September meeting to allow for a complete overview. She expressed appreciation for the added public comment and related extended timeline. Susan raised that gathering data comprehensively, from providers for instance, in addition to the readily available data would be critical.

Antonietta Mangiacotti, ICANN Org, replied that the goal was to reach out to providers to have them confirm and review the accuracy of the data that would be included in the report.

Marie Pattullo, BC, thanked the GDS team for taking Council comments onboard. She added that further information pertaining to the number of complaints filed for instance would be helpful. She suggested replacing the criteria of fees with cost, as this would be more relevant from a brand holder's perspective. She strongly advised replacing the term "DNS abuse" with the "cybersquatting" and "abusive registrations of domain names".

Antonietta Mangiacotti, ICANN Org, agreed to take this feedback back to her team to assess what additional data could be included in the report.

Philippe Fouquart, GNSO Chair, thanked all for their comments, and confirmed the intent of this agenda item was to ensure there is a common understanding as to the sources of the data and how they are processed, in order to allow for the GDS to begin the work.

Susan Payne, IPC Temporary Alternate to Flip Petillion, expressed the need for the work to be started, but in a thorough and effective manner.

Kurt Pritz, RySG, suggested that the data collection be a multi step process to ensure both quantitative and qualitative information is available to better inform future discussions.

- Action Items: none

Item 7: ANY OTHER BUSINESS

7.1 - Seek vice-chair for Standing Committee on ICANN Budget & Operating Plan, to prepare for a chair succession plan for the FY24 cycle.

7.2 - Acknowledgment of the Project Plan for the EPDP on Internationalized Domain Names.

7.3 - Potential next steps for the Board response to the Council's letter regarding its "Request for Continued Deferral of IDN Implementation Guidelines v4.0"

Action item:

- IDNs EPDP Team to develop a response to the Board letter on behalf of the GNSO Council.

7.4 - Suggestion to assign a Council liaison to Accuracy Scoping Team

7.5 - Farewell and thanks to outgoing Councilors: ***Carlton Samuels, Osvaldo Novoa, Pam Little, Tatiana Tropina, Tom Dale*** as well as to outgoing ALAC Liaison to the GNSO: ***Cheryl Langdon-Orr***

7.6 - Open microphone

In the interest of time, AOB items 7.1, 7.2, 7.3 and 7.4 were deferred to the GNSO Council Wrap Up session on 28 October 2021.

Philippe Fouquart, GNSO Chair, then thanked all outgoing councilors (Carlton Samuels, Osvaldo Novoa, Tom Dale) for their contributions and for their efforts as liaisons and as small team members. He equally thanked the outgoing ALAC Liaison to the GNSO (Cheryl Langdon-Orr) for her helpful contributions to the Council. He then expressed his deepest gratitude to Pam Little and Tatiana Tropina, outgoing Vice-Chairs, for their respective roles in the GNSO Council leadership team. He wished everyone all the best in their future endeavours.

Open microphone:

Cheryl Langdon Orr, outgoing ALAC Liaison to the GNSO, announced her honour and privilege, after having held the role since 2016, to hand it over to Justine Chew.

Volker Greimann, RrSG, had his comment read from the Zoom chat: "No one has been able to substantiate any benefits in non-redaction of pure legal person data, especially given that the wrongdoers

and abusers are not going about setting up Evil, Inc's left and right to make their registrations. Differentiation is therefore to be assumed to do _nothing_ to address abuse issues"

Jeff Neuman, GNSO Liaison to the GAC, had his comment read from the Zoom chat: "Thank you for your confidence in me in being the ODP Liaison for SubPro. In that role, I would love to hear from the Council (and the community) about their expectations for the Liaison (aside from what is in the role description). More specifically, I am not asking you to evaluate the performance of the current SSAD ODP Liaison, but rather what do you like about what that Liaison does, what more can be done (if anything)? Is the amount of information you are getting from the SSAD ODP Liaison enough or is there more information you would like to get? How often do you expect to be briefed and what else can I do in the role for the Council and the GNSO? The role description makes it clear that I am limited as to what I can do in my personal capacity and I understand and agree with that. What it does not say is what is expected from the GNSO perspective and that is my question for you. Thank you again. "

Action Items: none

Philippe Fouquart, GNSO Chair, adjourned the meeting at 21:33 UTC on Wednesday 27 October 2021