

On September 20, 2020, Council Leadership put forth the following proposal on the issue of Legal vs. Natural persons, which had been pulled out of EPDP Phase 2 for lack of consensus:

the EPDP Team is expected to . . . answer:

- i. Whether any updates are required to the EPDP Phase 1 recommendation on this topic (“Registrars and Registry Operators are permitted to differentiate between registrations of legal and natural persons, but are not obligated to do so “);
- ii. What guidance, if any, can be provided to Registrars and/or Registries who differentiate between registrations of legal and natural persons.

On this topic, the Final Report is clear the EPDP Phase 2a Team did not reach “consensus” concerning Instruction i(a). Moreover, the guidance in Instruction ii(a) shifts responsibility for such policy-making out of the GNSO to private-parties that do not incorporate the consensus or compromise positions of the Community. As such 50% of the instructed questions (i.e., “charter”) of EPDP Phase 2a has been left incomplete and without community consensus.

While the IPC supports the hard efforts and the incremental steps forward made by the Phase 2a Team on certain issues, when consensus on major pieces of a charter has not been reached, then it is incumbent upon the GNSO council, as the managers of the policy-making process, to get to work, utilizing tools to encourage compromise and to bridge gaps amongst working group members, so that important ICANN Community work can be completed. That was not done here. The IPC requested a deferral of this Motion to suggest ways to ensure that the substantial and important work left unfinished by the Phase 2a Team could be addressed. One possible manner to move this forward with IPC support would be to have voted on the Phase 2a recommendations individually. Such difficulties should have been foreseen. However, the Motion seeks the IPC to support unfinished work that is important to all segments of the Community. For these reasons, the IPC must vote no. That decision is not taken lightly, and indeed a minority of IPC members did favor approving these outputs as being minor incremental changes that are better than nothing. Nevertheless, without the benefit of additional time that a deferment would have brought, it has not been possible to undertake any formal vote within the IPC, which might have given a more precise assessment of the level of that support and might, perhaps, have indicated that a more nuanced voting position such as splitting our votes was appropriate.