

# EPDP Phase 2

## *Procedural Options*

20 January 2022



# Procedural Options

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Roughly three scenarios, two of which would require involvement of the GNSO Council & community:

1. *ICANN Board adopts the recommendations* – No role for the GNSO Council
2. *The ICANN Board determines that the adoption of the recommendation is not in the best interest of the ICANN community or ICANN* – GNSO Council requested to affirm or modify its recommendations in the form of a “Supplemental Recommendation”
3. *GNSO Council decides to make amendments or modification to the policy recommendations* – Under section 16 of the GNSO PDP Manual the GNSO Council can make amendments or modifications to the recommendations it approved.

# Scenario 1

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## Annex A-1 ICANN Bylaws:

- a. *Any EPDP Recommendations approved by a GNSO Supermajority Vote shall be adopted by the Board unless, by a vote of more than two-thirds (2/3) of the Board, the Board determines that such policy is not in the best interests of the ICANN community or ICANN. If the GNSO Council recommendation was approved by less than a GNSO Supermajority Vote, a majority vote of the Board will be sufficient to determine that such policy is not in the best interests of the ICANN community or ICANN.*

No further involvement of the GNSO Council until implementation starts.

## Scenario 2 – Board does not adopt all or part of recs

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### Annex A-1 ICANN Bylaws:

- b. *In the event that the Board determines, in accordance with paragraph a above, that the proposed EPDP Recommendations are not in the best interests of the ICANN community or ICANN (the Corporation), the Board shall (i) articulate the reasons for its determination in a report to the Council (the "Board Statement"); and (ii) submit the Board Statement to the Council.*
- c. *The Council shall review the Board Statement for discussion with the Board as soon as feasible after the Council's receipt of the Board Statement. The Board shall determine the method (e.g., by teleconference, e-mail, or otherwise) by which the Council and Board will discuss the Board Statement.*

*At the conclusion of the Council and Board discussions, the Council shall meet to affirm or modify its recommendation, and communicate that conclusion (the "Supplemental Recommendation") to the Board, including an explanation for the then-current recommendation. In the event that the Council is able to reach a GNSO Supermajority Vote on the Supplemental Recommendation, the Board shall adopt the recommendation unless more than two-thirds (2/3) of the Board determines that such guidance is not in the interests of the ICANN community or ICANN. For any Supplemental Recommendation approved by less than a GNSO Supermajority Vote, a majority vote of the Board shall be sufficient to determine that the guidance in the Supplemental Recommendation is not in the best interest of the ICANN community or ICANN.*

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## Scenario 2 (continued)

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- ⦿ Used recently in the context of the phase 1 recs (Purpose 2 and part of recommendation #12).
  - For purpose 2, Council accepted non-adoption by the ICANN Board
  - For Rec #12, the topic was discussed during a number of Council meetings, Council-Board meetings, exchange of letters, adoption of Supplemental recommendation, response from ICANN Board confirming details, formation of small team to informally liaise with Board and develop proposed response.
- ⦿ No prescribed process for how Council is expected to develop “Supplemental Recommendation”

# Scenario 3 – Council decides to make changes

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GNSO Operating Procedures, PDP Manual

## **16. Amendments or Modifications of Approved Policies**

*Approved GNSO Council policies may be modified or amended by the GNSO Council at any time prior to the final approval by the ICANN Board as follows:*

- 1. The PDP Team is reconvened or, if disbanded, reformed, and should be consulted with regards to the proposed amendments or modifications;*
- 2. The proposed amendments or modifications are posted for public comment for not less than thirty (30) days;*
- 3. The GNSO Council approves of such amendments or modifications with a Supermajority Vote of both Houses in favour.*

*Approved GNSO Council policies that have been adopted by the ICANN Board and have been implemented by ICANN Staff may only be amended by the initiation of a new PDP on the issue.*

## Scenario 3 (continued)

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- ⦿ This procedure has been used once before in the context of protections for Red Cross Names in 2018.
- ⦿ Following Council / Board consultations, the GNSO Council put forward specific amendments to the original recommendations and reconvened the PDP WG to consult on the proposed amendments.
- ⦿ In its Final Report, the reconvened PDP WG confirmed the proposed amendments and provided some additional recommendations for Council consideration  
(<https://gns0.icann.org/sites/default/files/file/field-file-attach/red-cross-protection-policy-amend-process-final-06aug18-en.pdf>)
- ⦿ The amendments were adopted by the GNSO Council and subsequently the ICANN Board.

# Other scenarios?

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- ⦿ Other? For example, does the Council/GNSO want to point to areas that can/should be implemented in a simplified manner such as accreditation (see for example email from Janis Karklins)
- ⦿ Is there a preference for a scenario?

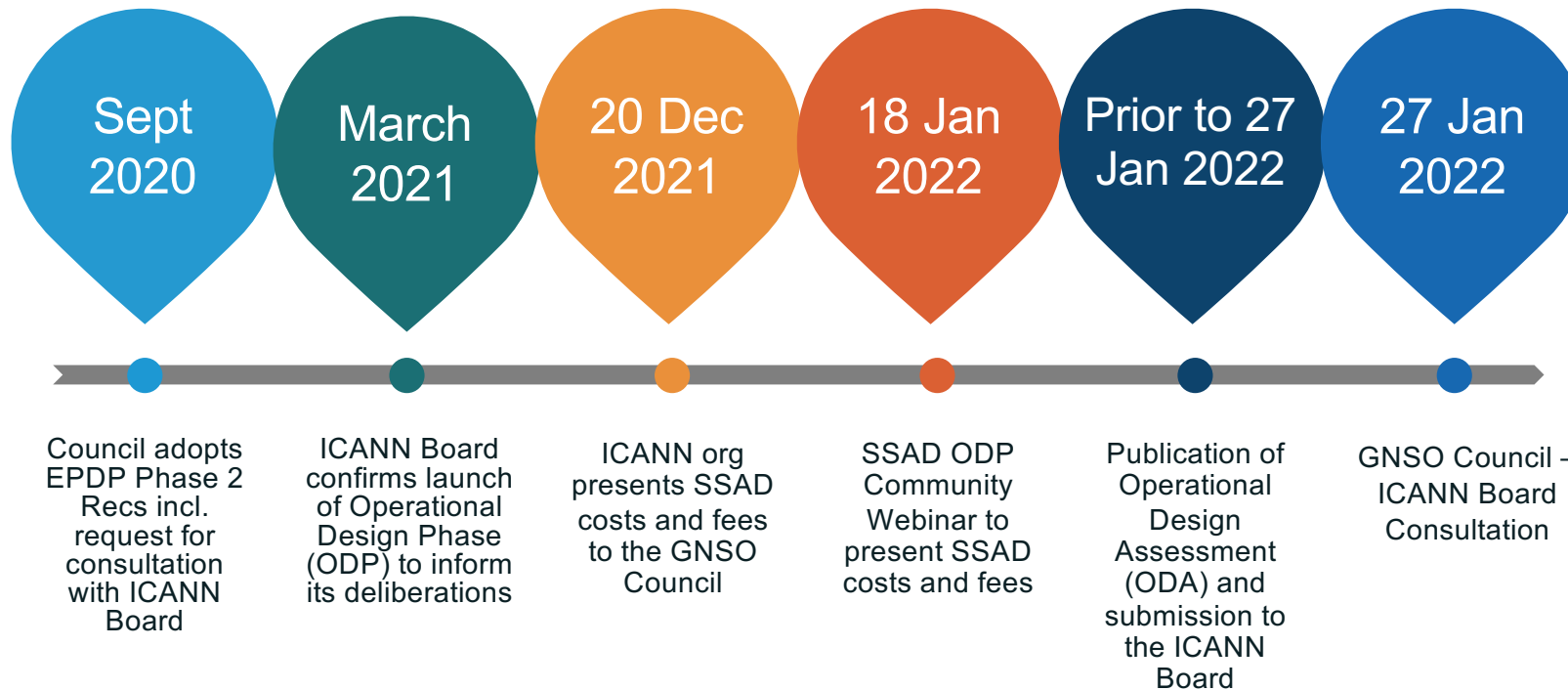


# Analysis and review of the ODA

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- ⊙ Many have indicated importance of analysing and reviewing the ODA once published
- ⊙ What is the best way of doing this?
  - Small team consisting of Council members and EPDP Phase 2 Team members?
  - EPDP Phase 2 Team?
  - Each SG/C undertakes its own analysis and reports back to Council by a certain date?
  - Other?
- ⊙ Would whomever is tasked with this analysis also be expected to provide recommendations to the Council on next steps (scenario 1, 2, or other what changes could/should be considered)?
- ⊙ What would be a reasonable timeframe for undertaking this analysis?

# Current Timeline



Next Steps