

## **Minutes of the GNSO Council Meeting 15 February 2024**

### **Agenda and Documents**

GNSO Council meeting on Thursday, 15 February 2024 at 21:00 UTC: <http://tinyurl.com/42vy5duf>

13:00 Los Angeles; 16:00 Washington DC; 21:00 London; 22:00 Paris; 00:00 Moscow (Friday); 08:00 Melbourne (Friday)

#### **List of attendees:**

Nominating Committee Appointee (NCA): – **Non-Voting** – Anne Aikman Scalese

#### **Contracted Parties House**

Registrar Stakeholder Group: Antonia Chu, Greg DiBiase, Prudence Malinki

gTLD Registries Stakeholder Group: Nacho Amadoz, Kurt Pritz, Jennifer Chung

Nominating Committee Appointee (NCA): Desiree Zeljka Miloshevic Evans

#### **Non-Contracted Parties House**

Commercial Stakeholder Group (CSG): Lawrence Olawale-Roberts, Mark Datysgeld (absent), Osvaldo Novoa, Thomas Rickert, Damon Ashcraft, Susan Payne

Non-Commercial Stakeholder Group (NCSG): Stephanie Perrin, Bruna Martins dos Santos (joined late, after vote), Wisdom Donkor, Tomslin Samme-Nlar , Peter Akinremi, Manju Chen

Nominating Committee Appointee (NCA): Paul McGrady

#### **GNSO Council Liaisons/Observers :**

Justine Chew : ALAC Liaison

Jeff Neuman: GNSO liaison to the GAC

Everton Rodrigues: ccNSO observer

#### **Guests:**

Odeline MacDonald, Eleeza Agopian, Amy Bivins, Brian Gutterman, Amanda Rose, Steve Sheng - all from ICANN Org

#### **ICANN Staff:**

David Olive - Senior Vice President, Policy Development Support and Managing Manager, ICANN Regional

Mary Wong - Vice President, Strategic Policy Management

Steve Chan – Vice President, Policy Development Support & GNSO Relations

Julie Hedlund - Policy Development Support Director (GNSO)

Berry Cobb - Senior Program Manager, Policy Development Support

Caitlin Tubergen - Policy Development Support Director (GNSO)  
Saewon Lee - Policy Development Support Manager (GNSO)  
Feodora Hamza - Policy Development Support Manager (GNSO)  
Terri Agnew - Policy Operations Specialist (GNSO)  
Devan Reed - Secretariat Operations Coordinator

[Zoom recording](#)

[Transcript](#)

### **Item 1: Administrative Matters**

1.1 - Roll Call

1.2 - Updates to Statements of Interest

1.3 - Review / Amend Agenda

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

[Minutes](#) of the GNSO Council Meeting on 21 December 2023 were posted on 02 January 2024

[Minutes](#) of the GNSO Council Meeting on 18 January 2023 were posted on 02 February 2024

**Paul McGrady, NCPH NCA**, noted that he updated his SOI with all of the various small teams and groups he is involved in and included that he is now a Board member of the INTA Pack.

### **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](#).

### **Item 3: Consent Agenda** Confirm Leadership of Standing Selection Committee (“SSC”)

- Confirm GNSO-Nominated ICANN Fellowship Program Mentor

All Councilors present voted in favor of the motion.

[Vote results](#)

Confirm Leadership of Standing Selection Committee (“SSC”)

Action Items: The ICANN org Support Staff, on behalf of the GNSO Council:

1. Informs SSC that the membership and leadership team has been confirmed.

2. Thank the members, Chair, and Vice-Chair for volunteering to serve on the SSC.

Confirm GNSO-Nominated ICANN Fellowship Program Mentor

Action Items: The GNSO Secretariat, on behalf of the GNSO Council:

1. Informs the staff supporting the ICANN Fellowship Program that the GNSO Council confirms the nomination of Mark Datysgeld to serve as an ICANN Fellowship Program Mentor for three consecutive ICANN meetings, beginning with ICANN81.
2. Informs the nominated candidate that he has been selected.
3. Sends 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.

#### **Item 4: COUNCIL VOTE - Registration Data Accuracy**

4.1 - Introduction of Topic (Greg DiBiase, GNSO Council Chair) - Odeline MacDonald, Eleeza Agopian and Amy Bivins

4.2 - Council Vote (Voting Threshold: Simple Majority)

4.3 - Next Steps

**Greg DiBiase, GNSO Chair**, introduced the vote on deferring the consideration of the accuracy scoping work for an additional six months.

**Odeline MacDonald, ICANN Org**, addressed the link between finalization of the Data Processing Agreement (DPA) or the Data Processing Specification (DPS) and the Registration Data Accuracy Scoping Team. While the DPA would be beneficial to the processing of large amounts of personal data, it would not resolve the fundamental data protection challenges that have been raised in the Data Processing Impact Assessment (DPIA). It is unlikely that such processing would be legal under the GDPR and other applicable data protection laws. ICANN identified significant risk and potential absence of legal basis for maintaining a database of personal information.

**Damon Ashcraft, IPC**, thanked Odeline MacDonald for the information she shared and noted that he is inclined to vote yes today, but in six months he is not inclined to vote for another extension.

**Greg DiBiase, GNSO Chair**, thanked Damon Ashcraft, and noted in his personal capacity that in six months the GNSO Council may consider alternatives to collecting data in bulk.

**Damon Ashcraft, IPC**, recommended adding this topic to the ICANN80 agenda in June 2024.

**Stephanie Perrin, NCSG**, noted her agreement with Damon Ashcraft and asked for the next steps that would change the feeling of this topic over the next six months. She shared her assumption that ICANN will not assume a controllership role.

**Greg DiBiase, GNSO Chair**, confirmed that the next step is the completion of the DPS, which may not be how some on the Accuracy Scoping Team might have envisioned. ICANN is pointing to their analysis that some of the practices that were done pre-GDPR are no longer viable.

**Odeline MacDonald, ICANN org**, reiterated that ICANN will not allow for additional processing, so bulk processing is not going to be the magic bullet.

**Thomas Rickert, ISPCP**, understood that this will be a no-go for ICANN to take any risk or get involved, which should trigger the Council to consider whether it is worth waiting six months or to bury this topic earlier. He also suggested that if choosing to wait, the Council should ask for monthly progress reports in respect to the DPA.

**Odeline MacDonald, ICANN org**, shared that the plan is to publish the DPS for community feedback once completed but she has no visibility on the timeline.

Thomas Rickert, ISPCP, clarified that he does not mean to criticize Odeline MacDonald, but he is seeking to understand where Council stands on this topic as it has been an open action item since EPDP Phase 1.

**Greg DiBiase, GNSO Chair**, noted that this topic is to be added to the list of open action items needed from ICANN and to ask more pointed questions as to the delay. In the next six months, the Council can look at the alternatives listed in ICANN's assessment. At the halfway point check Council can explore the options left on the table.

All Councilors present voted in favor of the motion.

#### [Vote results](#)

#### Action Items:

1. The GNSO Council extends the deferral of consideration of recommendations #1 and #2 of the Registration Data Accuracy Scoping Team write up for an additional six months.
2. GNSO Council leadership to consider options for next steps, such as a half-way point check (June 2024).

#### **Item 5: COUNCIL DISCUSSION - Update on SubPro Small Team Progress**

5.1 - Introduction of Topic (Paul McGrady, Small Team Plus Lead)

5.2 - Council Discussion

5.3 - Next Steps

**Paul McGrady, Small Team Plus Lead**, shared that the small team plus is nearing the end of their work and presented [slides](#) on SubPro Pending Recs Background (slides 2-5), Small Team Plus Membership (slide 6), Topic 9 - RVCs/PICs (slides 8-9), Topic 17 - Applicant Support (slides 10-11), Topic 18 - Terms and Conditions Recommendation 18.1 (slides 12-15), Topic 24 - String Similarity (slides 16-18), Topic 32 - Limited Challenge/Appeal Mechanism (slides 19-21), and Upcoming Milestones/Meetings and dates (slide 23).

**Anne Aikman-Scalese, NCA**, noted that with respect to these supplemental recommendations, the small team has had positive input from the Board's SubPro caucus. She noted the recommendation in question at the moment is about singulars and plurals and string similarity.

**Paul McGrady, Small Team Plus Lead**, thanked Anne Aikman-Scalese for pointing that out and noted that Council may be put in an awkward position to send something to the Board that may not make it past the vote. He clarified that he said nothing should surprise the Board, and that is still true, but that the Board may not like that recommendation.

**Greg DiBiase, GNSO Chair**, shared that it is not a problem if the Board votes against a recommendation, as long as Council is continuing to effectuate community intent.

**Kurt Pritz, RySG**, asked what the Council could do to back up and support the logic behind the supplemental recommendations.

**Paul McGrady, Small Team Plus Lead**, clarified that the Council will be taking a vote on these supplemental recommendations and will either support or not support them. If the Council votes in support of the supplemental recommendations, the supplemental recommendations will have the full moral authority of the Council.

**Greg DiBiase, GNSO Chair**, stated that one of the many reasons the Council is voting on the supplemental recommendations is to indicate to the Board that these recommendations have the full support of the Council.

Action Items: Staff to notify GNSO Council when slides are posted.

**Item 6: COUNCIL DISCUSSION - Next Steps for Consideration of Expired Domain Deletion Policy (“EDDP”) and Expired Registration Recovery Policy (“ERRP”)**

6.1 - Introduction of Topic (Nacho Amadoz, Council Vice-Chair) Brian Gutterman & Amanda Rose

6.2 - Council Discussion

### 6.3 - Next Steps

**Greg DiBiase, GNSO Chair**, shared that this item came before Council previously for review. The consensus was that this policy is working reasonably well and may not warrant a new Policy Status Report. However, Council asked Contractual Compliance if this was being implemented as designed, and Contractual Compliance reported data and feedback received from registrants regarding the ERRP and renewal issues. The report noted some ambiguous terms in the policy that could be fixed by educational materials on the website.

**Brian Gutterman, ICANN org**, shared a [list](#) of materials that are already available on icann.org. In addition to the educational materials ICANN org, as a part of its Registrant Program, also hosts capacity development courses and Global Support fields calls and tickets from registrants that are frustrated or confused.

**Greg DiBiase, GNSO Chair**, asked if there was a plan to put all of these materials in the same place on the website, or if this compilation was just for the edification of the Council, to prove that these materials exist.

**Brian Gutterman, ICANN org**, shared that if a search is done on icann.org or google.com, a lot of the links in the document will come up in the search.

**Stephanie Perrin, NCSG**, shared that she does not think a Google search is enough and recommended reviving the Registrant Rights Charter to have a manual of what the registrant should expect from the Contracted Parties.

**Greg DiBiase, GNSO Chair**, thanked Stephanie Perrin and shared that there is a registrant rights and responsibilities document and noted that there are comments that it is not easy to search the ICANN website. He recommended that Councilors review the substantive resources to see if they are sufficient and to check if these materials can easily be found on the website.

**Taiwo Peter Akinremi, NCSG**, asked if this list of materials will be published so that registrants can find it.

**Brian Gutterman, ICANN org**, shared that there is ongoing work with the ICANN org web team to make the website easier to use and that there is a new [I Need Help](#) webpage that is particularly relevant to registrants. He noted that aside from reporting complaints, registrants most often need help getting in contact with their registrar.

**Stephanie Perrin, NCSG**, shared that she realizes that Brian Gutterman is doing his best, and that it is not an easy task to reformat and date all of the documents the Council is complaining about. She is concerned that people at the bottom of the industry may not understand how the Domain Name System (DNS) operates and may not pay much attention to how they acquired their domain.

**Greg DiBiase, GNSO Chair**, encouraged Councilors to review these materials and share ideas on how to make them more presentable to registrants.

Action Items: Staff to send a reminder for GNSO Council members to 1) review the materials; 2) send them to their respective groups; and 3) suggest whether a Policy Status Report is necessary, or any other comments on the existing educational materials.

## **Item 7: COUNCIL DISCUSSION - ICANN79 Preparation**

7.1 - Introduction of Topic (Greg DiBiase, GNSO Council Chair)

7.2 - Council Discussion

7.3 - Next Steps

**Greg DiBiase, GNSO Chair**, reviewed the GNSO Council Sessions at ICANN79 and asked Councilors to register for them accordingly. He noted that during the GNSO Council Working Sessions, the Council will review various tools ICANN has to review existing work and initiatives and potentially push back if these initiatives don't make sense. He recommended that Councilors review the Action Decision Radar before ICANN79.

**Steve Chan, ICANN org**, highlighted that during the GNSO Council Working Session 3 of 3, the GNSO Council will host another Town Hall, where community members can bring their questions to the Council.

**Greg DiBiase, GNSO Chair**, reviewed topics for the bilateral session with the ICANN Board. The Board sent an [email](#) regarding questions they are thinking about and some pre-ICANN79 listening sessions. In the email, the Board raised a question regarding the implementation of NIS2. Speaking in his personal capacity, he shared that Council may not have consensus regarding this topic and that registrars think that current policies allow the flexibility to implement NIS2.

**Kurt Pritz, RySG**, supplied the RySG position that while GDPR directly conflicted existing policies and required policy development, NIS2 does not collide with any existing policies.

**Thomas Rickert, ISPCP**, agreed with the Board that the new Registration Data Policy has the flexibility to incorporate NIS2 and that the broader aspect of the discussion is whether ICANN should consider starting

Policy Development Processes or to otherwise react to national or regional regulatory initiatives. He shared his thought that it was a bad precedent for the European lawmakers to regulate something that should have been left with ICANN and the multistakeholder model.

**Greg DiBiase, GNSO Chair**, asked if anyone on Council holds a contrary view.

**Taiwo Peter Akinremi, NCSG**, thanked Greg DiBiase and asked if the Council will review NIS2 to understand the implications in the ICANN legal landscape and to make correlations between whether or not reacting by initiating a PDP would be appropriate.

**Susan Payne, IPC**, shared that some members of the IPC do believe that policy work is necessary and she does not foresee Council being able to provide a unified position. She recommended setting the opportunity for these different views to be reflected in the discussion.

**Greg DiBiase, GNSO Chair**, thanked Susan Payne and shared that he was aware of those views as well, and that there is opportunity for the relevant stakeholder groups to have that discussion at their own bilaterals with the Board. He noted that the Council can decide to push back against this question.

**Anne Aikman-Scalese, NCA**, reflected that she has the luxury of not representing any Stakeholder Group or Constituency on the Council and shared that it makes sense to her that a spokesperson would step up on either side of the issue. She supports having this conversation with the Board.

**Greg DiBiase, GNSO Chair**, shared that he does not want a debate breaking out between the two sides. He would like to share with the Board that the Council itself has no clear opinion and allow volunteers to concisely express their opinion without engaging in debate. He also noted Susan Payne's idea to reorder the agenda to address other topics first.

**Paul McGrady, NCPH NCA**, shared his thoughts that NIS2 has not been fully implemented and that multiple states are looking at it. The Board was careful, noting that it does not appear to conflict with current policy, but that does not mean this topic is settled.

**Stephanie Perrin, NCSG**, noted that it would make sense to wait until there is legal precedent to revamp policies, even if that may be required.

**Greg DiBiase, GNSO Chair**, confirmed that Leadership will move this topic to Agenda Item 4 at the bilateral, noting that there is no unified GNSO Council position and if there is enough time, allow councilors to speak to their viewpoints. Moving forward to other topics, the GNSO Council will continue their discussion on enduring policy recommendations that are Board ready, following up on Resolutions 2023.10.26.11 and 2023.10.26.12, and outstanding items related to pending SubPro recommendations.

**Jeffrey Neuman, GNSO Liaison to the GAC**, was asked by GAC to clarify if the Council knows or has any views on what the mechanism is to determine outstanding items that are related to the next round of



new gTLDs but are not related to pending SubPro recommendations specifically regarding auctions of last resort or private resolution.

**Greg DiBiase, GNSO Chair**, clarified that as written, the topic is regarding the recommendations that Council is bringing back to the Board. He does not see an issue broadening the topic if Council thinks there are additional topics worth discussing.

**Anne Aikman-Scalese, NCA**, recalled from her work on the small team that Council supplied a statement that Council took no position with respect to private auctions

**Greg DiBiase, GNSO Chair**, noted Anne Aikman-Scalese's point and asked if this is really an item within Council's purview?

**Jeffrey Neuman, GNSO Liaison to the GAC**, agreed that there is no GNSO policy on this and stated that this needs to be addressed somewhere in the community.

**Greg DiBiase, GNSO Chair**, confirmed that even though Council does not have a position on this, they can still ask the Board about this topic.

Action Items:

1. On the GNSO Council meeting with the Board and the NIS2 question: Staff on behalf of GNSO Council leadership to suggest to 1) re-order the agenda to move it to item 4; 2) make it clear that the Council does not have a unified opinion, and 3) time permitting Councilor may offer comments; On the SubPro question: Request to include auctions/private resolutions.
2. The GNSO Council Leadership, on the GNSO Council meeting with GAC, to circulate the agenda with the GNSO Council.

**Item 8: COUNCIL UPDATE: Draft NCAP Study 2 Report (15 minutes) | item start time: 22:25 UTC**

8.1 - Introduction of Topic (Greg DiBiase, GNSO Council Chair) - Steve Sheng

8.2 - Council Discussion

8.3 - Next Steps

**Greg DiBiase, GNSO Chair**, introduced Steve Sheng to give the Council Update on Name Collision Analysis Project Study 2 Report, which has significant impact to the GNSO Council's SubPro work.

**Steve Sheng, ICANN org**, shared that he will take any questions and then refer them back to the discussion group and SSAC Chair, and presented [slides](#) on behalf of the discussion group regarding Background (slide 2), Risks to security and stability of name collisions (slide 3), and Remediation and Prevention (slide 4).

**Written in Chat:** Kurt Pritz, RySG, 02:11:38: The one case where there was severe impact - what was that TLD?

**Steve Sheng, ICANN org,** shared that looking at the case study for Corp, there was observed increase in queries to the corp and increase to the networks where the queries came from, as well as increase to secondary labels. One of the things the study group found is that looking at the top 20 queries to the root are for non-existent TLDs and they change week-to-week.

**Anne Aikman Scalese, NCA,** noted that she has been on this discussion group for years with a non-technical background and asked if you have to delegate the string just to see what the name collisions are going to be before you award a contract, are you going to threaten what's happening at the root in terms of delegation rates? IANA thought they could handle it, and that would only happen when ICANN itself refers a string to the technical review team.

## **Item 9: ANY OTHER BUSINESS**

### 9.1 - ccNSO & GAC Liaison updates

This item was deferred due to time constraints.

### 9.2 - Board letter on Closed Generics

**Greg DiBiase, GNSO Chair,** noted that Council Leadership circulated the letter on Closed Generics and is of the opinion that there is no work to be done right now on this topic. Council asked the Board for their approach on how to move forward and the Board gave their recommendation. He wanted to check in to make sure that the Council shares that assumption.

### 9.3 - Standing Predictability Implementation Review Team ("SPIRT") Charter Drafting Team Update

This item was deferred due to time constraints.

### 9.4 - Status Update on Council Requests

This item was deferred due to time constraints.

### 9.5 - Update from Contracted Party House Abuse Subgroup's Meeting with the Non-Commercial Stakeholder Group

This item was deferred due to time constraints.

Action Items: Staff to add to the ICANN79 working session or Council agenda.

#### 9.6 - CCOICI Survey Reminder

**Written in the chat:** Manju Chen, CCOICI Chair, 02:19:51: As it looks like we won't be able to reach the CCOICI survey item, I wanted to remind councilors to remind the leadership of your SG/Cs of such survey and put it on the agenda of your San Juan meeting. Your feedback is critical. It will decide whether we should continue the CCOICI as the mechanism to carry out GNSO's continuous improvement effort or not.

#### 9.7 - Update on Latin Diacritics

**Greg DiBiase, GNSO Chair**, noted that Council Leadership has been working on this Diacritic study request, and ICANN now thinks they may be able to solve this through suggesting a mechanism rather than a study

**Steve Chan, ICANN org**, noted that ICANN org observes the Council meetings and is aware of the request. They are willing to start evaluating whether those options exist without waiting for a formal request from the Council and his understanding is that Org can provide some preliminary analysis shortly after ICANN79.

**Anne Aikman-Scalese, NCA**, clarified that the timeframe would be to have a preliminary conclusion shortly after ICANN79.

Ad Hoc AOB

**Steve Chan, ICANN org**, introduced new staff member Feodora Hamza.

**Greg DiBiase, GNSO Chair**, adjourned the meeting at 23:00 UTC

The next GNSO Council meeting will take place on Wednesday, 06 March 2024 at 17:15 UTC.