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FORUM

Standing Predictability Implementation Review Team “SPIRT” - Draft Charter -

GNSO COUNCIL DISCUSSION Item #6: Introduction of Topic - Updates
Wednesday, 12 June, 2024 at 11:45 UTC

Agenda Items

1

**Objective and Progress
of
SPIRT Charter**

2

**Proposed Charter
vs.
Annex E**

3

Next Steps

1. Objective and Progress of SPIRT Charter

1. Objective and Background of SPIRT Charter

Objective

- A draft charter to be developed for the proper functioning of the SPIRT and how the Predictability Framework should be utilized by the SPIRT when issues arise
 - ✓ Recommended in the New gTLD Subsequent Procedures Final Report

Background

- SPIRT: Standing Predictability Implementation Review Team (pronounced “Spirit”)
 - ✓ To be an advisory body to serve during the course of the New gTLD Program
- The New gTLD Subsequent Procedures Final Report included an **Annex E (pp.322-328)** that provides detailed guidance on how the SPIRT should operate
 - ✓ SPIRT Charter Drafting Team considered the Annex E Implementation Guidance and followed it when drafting the charter, except as noted later in this presentation.
- SPIRT and Predictability Framework are **NOT** intended to operate until the Applicant Guidebook (AGB) is approved by the ICANN Board (*Planned for no later than Dec. 2025*)

1. Scope and Progress of SPIRT Charter

Scope

- Charter Drafting Team was NOT responsible for developing the Predictability Framework
 - ✓ Predictability Framework is an output of the New gTLD Program implementation effort
 - ✓ Predictability Framework is being updated following the Public Comment (Mar. 2024)

Progress



2. Proposed Charter vs. Annex E

2. Structure of Charter

Section	Title	Sub-section
1	Standing Committee Identification	Charter overview, including Chartering Organization, Approval Date, Workspace, etc.
2	Mission, Purpose, and Deliverables	Mission, Scope, Objectives & Goals, Deliverables & Timeframes
3	Formation, Staffing, and Organization	Membership Model & Criteria, Leadership Structure & Criteria, GNSO Council Liaison, Support Staff
4	Rules of Engagement	Statements of Interest (SOI) & Transparency, Statement of Participation (SOP), Problem Escalation & Resolution Process, Formal Complaint Process
5	Decision Making Methodologies	Consensus Designation Process, Who can Participate in Consensus Designation, Termination or Closure of SPIRT
6	Charter Document History	Version dates

2. Proposed Charter vs. Annex E

Proposed Charter

Section II. Mission, Purpose, and Deliverables - Scope (pp.2-3)

“The SPIRT shall be a subscriber of the Change Log [...] For the type of changes that are determined to be minor operational changes (Type 1), the SPIRT shall be expected to regularly monitor updates communicated through the Change Log.”

“In the event that the SPIRT determines that it disagrees [...] it shall engage in a post-mortem process with ICANN org [...]”

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Annex E

N/A

Rationale

- Annex E/Predictability Framework: SPIRT is not involved in minor changes (Type 1)
- Team’s concern: SPIRT’s disagreement with ICANN org on the type of change designation
- Team’s decision: SPIRT to subscribe to Change Log and monitor minor changes (Type 1)

2. Proposed Charter vs. Annex E

Proposed Charter

Section II. Mission, Purpose, and Deliverables - Scope (p.3)

“Issues forwarded to ICANN org are limited to: the ICANN Board; or the GNSO Council. However, ICANN org can refer an issue to itself. Issues forwarded to ICANN org should be subject to thoughtful analysis and have an impact beyond a single applicant.”

Annex E

p.324

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*“Who can raise an issue to the SPIRT?
Issues forwarded to the SPIRT should be subject to thoughtful analysis and have an impact beyond a single applicant. As such, issues can only be forwarded by:*

- *ICANN Board;*
- *ICANN org; or*
- *The GNSO Council”*

Rationale

- Predictability Framework: When an issue is raised during the change request, all issues are forwarded to the ICANN org to determine a path forward. Only after is the SPIRT involved.
- Annex E: Forwarding parties submit issues to the SPIRT to determine a path forward.
- Team’s decision: ICANN org has taken on the SPIRT’s role of triaging issues, consistent with the Predictability Framework.

2. Proposed Charter vs. Annex E

Proposed Charter

Section II. Mission, Purpose, and Deliverables - Deliverables & Timeframes (p.4)

“When ICANN org notifies the SPIRT of the type of change considered by ICANN org, the SPIRT shall endeavor to provide guidance, if any, within 7 calendar days [...] For changes designated as minor operational changes (Type 1), [...] no more than 3 calendar days to provide guidance if it disagrees with the decision.”

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Annex E

N/A

Rationale

- Annex E/Predictability Framework: Absence of SPIRT’s involvement in ICANN org’s change determination process
- Team’s concern: SPIRT’s disagreement with ICANN org on the type of change designation
- Team’s decision: SPIRT to provide ICANN org feedback within a short timeframe if any disagreements (i.e., postmortem approach to minor operational change designation)

2. Proposed Charter vs. Annex E

Proposed Charter

Section II. Mission, Purpose, and Deliverables - Deliverables & Timeframes (p.4)

"[...] it may be the case that certain aspects of the Program cannot move forward until an implementation path is identified and executed. As such, the SPIRT shall endeavor to reach an agreement with ICANN org [...] which may likely be 30-60 calendar days."

Annex E

p.325

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"Role of GNSO Council where issue was forwarded by a party other than the Council. Upon being provided with a copy of the draft advice/guidance, the GNSO Council shall within no greater than 60 days, unless a 30-day extension is requested by the Council:

- *Approve the delivery of the draft advice/guidance to the party that initially forwarded the issue;"*

Rationale

- Annex E: Timeframe for SPIRT's guidance implied through the GNSO Council's role
- Predictability Framework: *"if no agreement is reached within 30 calendar days, [...] ICANN org and the SPIRT will continue to collaborate until a permanent solution is agreed."*
- Team's decision: 30-60 calendar day timeframe

2. Proposed Charter vs. Annex E

Proposed Charter

Section III. Formation, Staffing, and Organization - Call for Volunteers (p.5)

“A ‘Call for Volunteers’ shall be carried out once per year. [...] On an exceptional basis, the Council may determine that a Call for Volunteers must be carried out sooner than a year (e.g., detrimentally low membership and/or participation).”

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Annex E

N/A

Rationale

- Annex E: No mention of the frequency for a ‘Call for Volunteers’
- Team’s decision: Need to keep track of membership for wide and active participation

2. Proposed Charter vs. Annex E

Proposed Charter

Section III. Formation, Staffing, and Organization - Leadership Structure and Formation (p.6)

“The leadership team shall serve a two-year term, with the role being reviewed by the GNSO Council every two years. As part of this review, the GNSO Council is expected to request the SPIRT and/or GNSO Council Liaison to the SPIRT for input on the role and functioning of the SPIRT leadership.”

Annex E

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N/A

Rationale

- Annex E: No mention of term limit for the leadership team (*but to follow membership term; a 2-year term; except half of the inaugural members joining for a 3-year term*)
- Team’s decision: The leadership team to follow a general membership term limit (2 years) AND to be reviewed by GNSO Council every 2 years
- Language inspired by the GNSO Liaison to the GAC Guidelines.

2. Proposed Charter vs. Annex E

Proposed Charter

Section III. Formation, Staffing, and Organization - Leadership Structure and Formation (p.6)

“The Chair and Vice-Chair(s) are also contributing members to the SPIRT deliberations and participate in consensus calls. As members of the leadership team are serving in two roles, they are expected to make clear when they are providing input as a member as opposed to speaking in a leadership capacity.”

Annex E

N/A

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Rationale

- Annex E: No mention of Chair/Vice-Chair roles in consensus call participation
- Team’s decision: The leadership team should also contribute to the SPIRT deliberations and participate in consensus calls.

2. Proposed Charter vs. Annex E

Proposed Charter

Section III. Formation, Staffing, and Organization - Support Staff (p.7)

“Staff assignments to the SPIRT:

- *ICANN policy staff members*
- *GNSO Secretariat*

In addition, regular participation of and consultation with other ICANN org departments will be required. As such, the ICANN org shall appoint at least one (1) Liaison to the SPIRT from the function that is in charge of operating the New gTLD Program.”

Annex E

pp.325-326

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“ICANN Staff Interaction with the SPIRT

- a. [...]*
- b. ICANN will provide staff liaisons from ICANN org GDD, legal, and policy support.”*

Rationale

- Annex E: Explicitly mentions staff support from GDD, Legal, Policy
- Team’s decision: Charter to include staff support from the function that is in charge of operating the New gTLD Program, but not to explicitly name functions other than Policy as they may change over time.

2. Proposed Charter vs. Annex E

Proposed Charter

Section IV. Rules of Engagement - Statements of Interest (SOI) and Transparency (p.7)

*"In addition, all members shall disclose whether they are in any way associated with an application for a new gTLD string in the current round. This includes being an employee, consultant, outside advisor (including legal), or any other association with the applicant, a back-end operator and/or any other service provider in the new gTLD Program. Prior to applications being revealed, the members must only disclose that it is working with one or more applications; **provided, however, that after all applications are revealed to the public, the member must specify which applications it is associated with.**"*

Annex E

pp.323-324

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"The Statement of Participation should include all of the usual elements of a GNSO Statement of Interest plus additional information the GNSO Council may see fit, including but not limited to, whether the participant is (or will be) employed by, under contract with, has a financial interest in, or providing consulting, financial, legal or other services to, any new gTLD applicant, objector, or commenter. The Statement of Participation is not intended to exclude any person/entity from participating, but rather to provide complete information about the participant to the community. All Statements of Participation shall be made public."

Rationale

- Annex E: Provides language on SOI/SOP and transparency
- Team's decision: Charter language follows naturally from the "additional information" language in Annex E to the effect that Council may specify member disclosure of additional information as it sees fit.

2. Proposed Charter vs. Annex E

Proposed Charter

Section IV. Rules of Engagement - Statement of Participation (SOP) (pp.7-8)

“Accordingly, each member of the SPIRT should disclose in their SOPs any financial interests and, possibly, incentives as they pertain to a specific complaint or issue under review. Disclosures shall take place at the beginning of every SPIRT meeting and will be captured on the recording of the meeting.”

While the SPIRT is not subject to conflict of interest policy, SPIRT members may feel the need to abstain from a specific SPIRT decision. When appropriate, the SPIRT member may recuse himself/herself, but required disclosure of a direct involvement in an application with an issue before the SPIRT does not, in and of itself, require recusal. Further, at no time should any single application be singled out for disparate treatment from other applications that are similarly situated.”

Annex E

p.327

“Members of the SPIRT should accordingly disclose in their Statement of Participation any financial interests and, possibly, incentives as they pertain to a specific complaint or issue under review.”

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“The term “Conflict of Interest” will not pertain to the actions of SPIRT members, but that does not imply that there may not be circumstances whereby a member might feel the need to abstain from a SPIRT decision. At no time should any single application be singled out for disparate treatment from other applications that are similarly situated.”

Rationale

- Team’s decision: Charter language follows Annex E language

2. Proposed Charter vs. Annex E

Proposed Charter

Section IV. Rules of Engagement - Statement of Participation (SOP) (p.8)

“Where relevant, I agree to disclose, on a regular and ongoing basis, whether I am in any way associated with an application for a new gTLD string in the current round. This includes being an employee, consultant, outside advisor (including legal), or any other association with the applicant, a back-end operator and/or any other service provider in the new gTLD Program. Prior to applications being revealed, I must only disclose that I am working with one or more applications; provided, however, that after all applications are revealed to the public, I must specify which applications I am associated with.”

Annex E

pp.323-324

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“The Statement of Participation should include all of the usual elements if a GNSO Statement of Interest plus additional information the GNSO Council may see fit, including but not limited to, whether the participant is (or will be) employed by, under contract with, has a financial interest in, or providing consulting, financial, legal or other services to, any new gTLD applicant, objector, or commenter.”

Rationale

- Annex E: Provides language on SOP and transparency
- Team’s decision: Charter language follows naturally from the "additional information" language in Annex E to the effect that Council may specify member disclosure of additional information as it sees fit.

2. Proposed Charter vs. Annex E

Proposed Charter

Section V. Decision Making Methodologies (p.9)

“The SPIRT is intended to serve as an advisory body to provide guidance to ICANN org, the ICANN Board, and the ICANN community. [...]

SPIRT Decision-making

- *The Chair of the SPIRT, in consultation with any Vice-Chairs, will seek non-objection from the SPIRT members for decision-making when addressing the issues raised by a Forwarding Party;*
- *If there are any objections, the SPIRT leadership will assess the level of consensus within the SPIRT, using standard decision-making methodology as outlined in [Section 3.6 of the GNSO Working Group Guidelines](#). The SPIRT shall strive towards achieving Consensus on all advice and/or recommendations from the SPIRT.”*

Annex E

p.326

V
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“The SPIRT is intended to serve as an advisory body to provide guidance to ICANN org, the ICANN Board and the ICANN community. [...]

- *The Chair of the SPIRT, in consultation with any Vice-Chairs, will assess the level of consensus within the SPIRT, using standard decision-making methodology as outlined in section 3.6 of the GNSO Working Group Guidelines.*
- *The SPIRT shall strive towards achieving Consensus on all advice and/or recommendations from the SPIRT. Even if Consensus is not reached, the SPIRT can provide input on any particular issue received, as long as the level of Consensus/support within the SPIRT is reported using the standard decision-making methodology outlined in section 3.6 of the GNSO Working Group Guidelines.”*

Cont'd...

2. Proposed Charter vs. Annex E

Proposed Charter

Section V. Decision Making Methodologies - Who Can Participate in Consensus Designation (pp.11-12)

“Consensus calls or decisions are open to all Members.

The SPIRT Chair shall ensure that all perspectives are appropriately taken into account in assessing consensus designations on the final recommendations.

Though the SPIRT leadership will initially follow the non-objection process, if any objections are raised from the SPIRT members, the GNSO Working Group Guidelines apply in full and consensus designations are therefore the responsibility of the SPIRT Chair and are to be made in accordance with the consensus levels described in Section 3.6 of the Working Group Guidelines.”

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Annex E

p.326

- *“The Chair of the SPIRT, in consultation with any Vice-Chairs, will assess the level of consensus within the SPIRT, using standard decision-making methodology as outlined in section 3.6 of the GNSO Working Group Guidelines.*
- *The SPIRT shall strive towards achieving Consensus on all advice and/or recommendations from the SPIRT. Even if Consensus is not reached, the SPIRT can provide input on any particular issue received, as long as the level of Consensus/support within the SPIRT is reported using the standard decision-making methodology outlined in section 3.6 of the GNSO Working Group Guidelines.”*

Rationale

- The Team suggests a non-objection process prior to the decision-making methodology outlined in Annex E to expedite the processes when issues arise and provide timely guidance

2. Reminder on SPIRT's Role for GNSO Council

Proposed Charter (p.4)

"The SPIRT is reminded that it is not within its scope to develop new policy nor serve as a substitute for or replacement of the mechanisms set forth in the ICANN Bylaws to develop policy or provide advice to the ICANN Board."

VS

New gTLD SubPro Report (p.16)

"In the event of a conflict, existing GNSO processes and procedures, including the GNSO Input Process, GNSO Guidance Process, and EPDP as contained in the Annexes to the GNSO Operating Procedures take precedence."

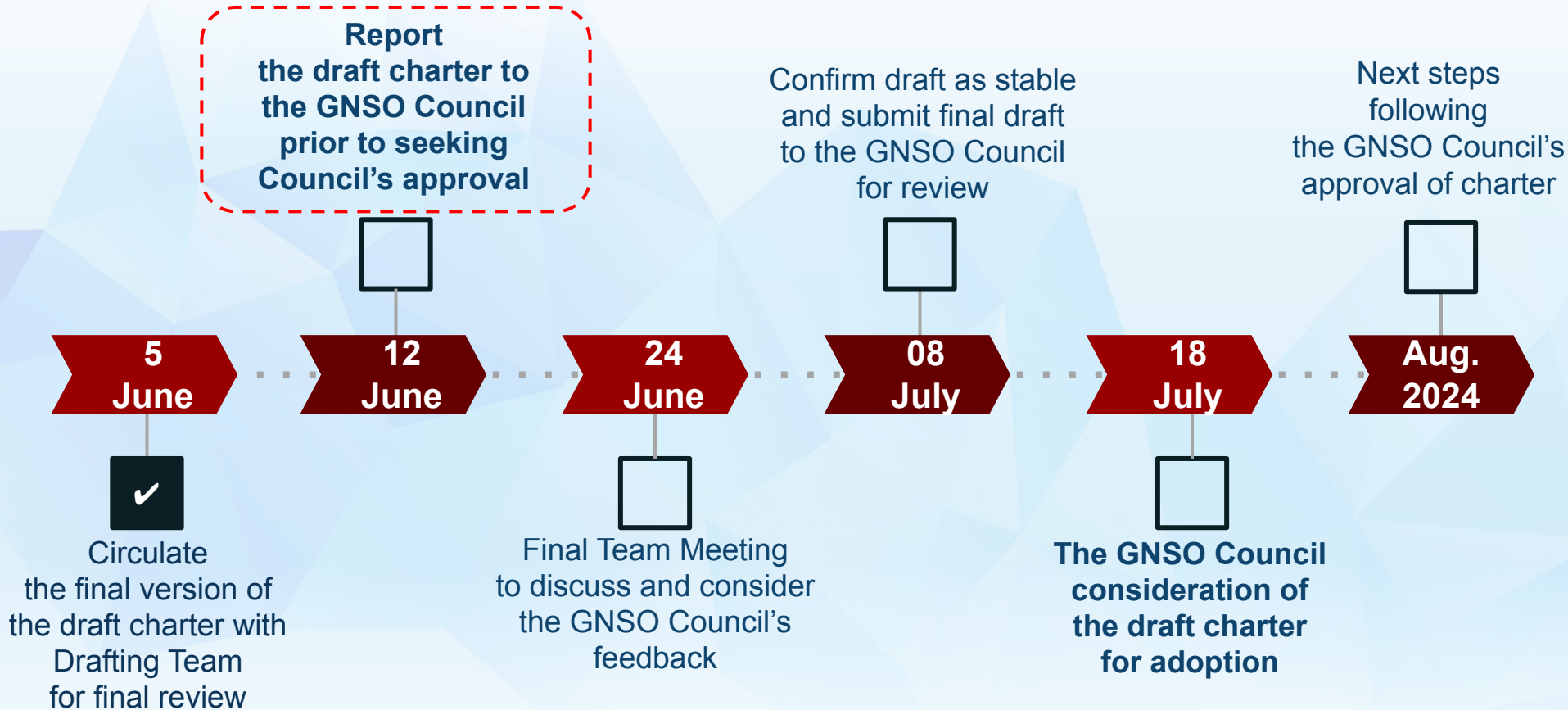
IMPORTANT

Concluding Statement

The SPIRT determination is subject to the GNSO Council Operating Procedures which allow any Council member to raise an issue for further review at the Council level.

3. Next Steps

Next Steps





Thank You and Questions

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