

GNSO POLICY DEVELOPMENT, IMPLEMENTATION, AND ENFORCEMENT

PROCESS

GNSO policy development is a consensus, bottom-up policy development process open for participation by all interested parties. It includes multiple opportunities for public input and comment via the ICANN Public Comment process as well as specific outreach to GNSO Stakeholder Groups and Constituencies and ICANN Supporting Organizations and Advisory Committees to ensure broad participation and input. The GNSO Policy Development Process (PDP) is detailed in [Annex A of the ICANN Bylaws](#) as well as the [GNSO Policy Development Process Manual](#). GNSO policy implementation follows the [Consensus Policy Implementation Framework](#) and the [Implementation Review Team \(IRT\) Principles and Guidelines](#).

1 Issue Identification

Prior to initiating a PDP, the community is encouraged to hold substantive discussions defining and clarifying the scope of the issue, gathering additional data and information and determining if there is enough support to request an Issue Report.

Where appropriate, the GNSO Council should encourage such discussions during the planning and initiation phase of the PDP.

2 Issue Scoping

A GNSO Council member, the ICANN Board, or any of the ICANN Advisory Committees may request an Issue Report. The ICANN organization prepares the Preliminary Issue Report, including a draft charter for a possible PDP working group, and may contact any relevant parties to obtain required data. The ICANN organization publishes the Preliminary Issue Report for Public Comment, collating the standard public comment report afterwards. Factoring in the input received in response to the public comment forum, the ICANN organization finalizes the Issue Report, including the staff report of the public comment proceeding, for submission to the GNSO Council.

3 Initiation

If the Issue Report originated due to a request from the ICANN Board, a GNSO Council vote is not required. For all other issues raised in a PDP, the GNSO Council distributes the Final Issue Report to all Council members and calls for Council deliberation and vote. If the voting threshold, as defined in the ICANN Bylaws, is met (note, different voting thresholds apply depending on which entity originally requested the Issue Report), the PDP is formally initiated.

If the GNSO Council votes against initiating the PDP, the process ends unless the Issue Report originated from an Advisory Committee that wants the PDP to proceed. The Advisory Committee has the option to meet with the GNSO representatives to discuss the rationale for rejecting the initiation of the PDP, following which the Advisory Committee can submit a statement providing rationale for and requesting a Council re-vote.

If the PDP is initiated, the GNSO Council may direct a group to draft a charter for the PDP Team including elements such as Working Group Identification; Mission, Purpose and Deliverables; Formation, Staffing and Organization, and Rules of Engagement. The Council may also opt to adopt the charter that was included in the Final Issue Report. The GNSO Council, pursuant to its internal procedures, must approve a PDP Charter in order to form the required PDP Team. Note the current preferred model for the PDP Team is the Working Group model due to the availability of specific Working Group rules and procedures that are included in the GNSO Operating Rules and Procedures.

4 Working Group

Once the Final Issue Report and Charter are approved, the GNSO Council forms a Working Group to perform the PDP activities. Any interested parties may join the Working Group as a member, attend meetings, and provide input through the mailing list. There is also the possibility of joining the effort as an observer.

The PDP Working Group continuously seeks input from impacted parties, including, but not limited to the GNSO's Stakeholder Groups and Constituencies and ICANN's Supporting

Organizations and Advisory Committees. Input and dialogue occurs through most phases, but particularly before drafting the Working Group's Initial Report.

The ICANN organization provides support to the PDP working group, both logistically as well as substantively. This includes, amongst others, coordination with the PDP Working Group's Chair(s) to plan, schedule and attend Working Group meetings, as well as provide standard technical resources or expertise, and assist in drafting PDP reports and publishing reports for Public Comment.

The ICANN organization departments responsible for the future implementation of any resulting policy follow the policy development activities to engage on implementation-related matters, as appropriate. Consideration of and feedback on policy work products and consensus policy recommendations as they relate to implementation occur throughout the various phases of the PDP.

At the instruction of the PDP WG, the ICANN organization publishes the PDP Working Group's Initial Report for Public Comment, via the ICANN Public Comment forum process. More than one Public Comment period may occur during this phase. The Working Group's Final Report contains a set of policy recommendations for consideration by the GNSO Council and a statement on the PDP Working Group's discussion concerning impact of the proposed recommendations as well as the level of support received. The recommendations may consider, but are not limited to, areas such as economics, competition, operations, privacy and other rights, scalability and feasibility. The Final Report may also include implementation guidance.

5 Council Deliberations

After considering the PDP Working Group's Final Report, the GNSO Council can return the Report to the Working Group with any concerns or suggestions for modification. As the manager of the PDP, the GNSO Council is expected to confirm that the required steps of the PDP have been followed. Following that, the Council vote on the PDP Working Group's Final Report and if the voting threshold, as defined in the ICANN Bylaws, is met, then the Final

Report and the included policy recommendations are approved. The GNSO Council then designates a person or group to compile all relevant PDP materials into a Recommendations Report, and submit it to the ICANN Board. However, if the GNSO Council's vote does not meet the required threshold, the PDP ends.

In preparation for the ICANN Board's deliberation and vote, the ICANN organization publishes the GNSO-approved policy recommendations for Public Comment, after which the ICANN organization compiles a staff report of the public comment proceeding.. At the same time, the GAC is notified of the GNSO-approved policy recommendations that will be considered by the ICANN Board for adoption, as per the requirements of Section 3.6 of the Bylaws, so that the GAC may provide their opinion if they determine the policy action affects public policy concerns.

6 Board Vote

The ICANN Board considers both the GNSO's Recommendations Report based on the Working Group's Final Report as well as the ICANN organization's prepared Board paper. The Board paper includes the latest staff report of the public comment proceeding and the ICANN organization's assessment of feasibility of implementation, which may cover the financial, security and stability impact of the policy recommendations.

If the ICANN Board receives Advice from an ICANN Advisory Committee that conflicts with the GNSO's policy recommendations, this could represent a potential impasse (i.e., any situation in which the parties involved can't, or won't, move forward or make any sort of progress) based on the nature and extent of the conflict between the Advice and GNSO policy recommendations and in consideration of the Board's role and obligations. However, there are informal and formal mechanisms in place that could facilitate dialogue as well as possible reconsideration either by the Advisory Committee and/or GNSO that could avoid such an impasse.

The general expectation is that the Board will adopt the policy recommendations, directing the ICANN organization to implement. If the GNSO Council approved the policy recommendations by a supermajority vote, the policy recommendations can only be

rejected by the ICANN Board if the Board determines by a 2/3 vote that the policy recommendations are not in the best interest of the community or ICANN organization. If the GNSO Council approved the policy recommendations by less than a supermajority vote, the Board may reject the policy recommendations by a majority vote.

If the Board rejects the policy recommendations, it must issue a rationale statement and discuss the issues with the GNSO. After the conclusion of the Board/GNSO discussion, the GNSO issues a Supplemental Recommendation(s) which either affirm(s) or modify/modifies the original policy recommendations. The Board shall adopt the Supplemental Recommendations unless more than 2/3 of the Board determines the policy recommendations are still not in the best interest of the ICANN community or ICANN. To date, the Board has not rejected any GNSO policy recommendations.

7 Planning

As directed by the Board, the ICANN organization begins implementing the adopted policy recommendations per the guidelines and processes defined in the [GNSO Policy Development Process Manual](#), [Implementation Review Team \(IRT\) Principles & Guidelines](#), and [Consensus Policy Implementation Framework](#).

The ICANN organization is responsible for the entire implementation lifecycle of the policy which includes creating an Implementation Plan; recruiting and engaging the Implementation Review Team; consulting with relevant ICANN organization staff (i.e., a cross-functional team) and/or any outside parties that are required; and conducting outreach surrounding the implementation, including communicating with the public and relevant stakeholders regarding the implementation progress.

In preparing to create an Implementation Plan, the ICANN organization first creates a project plan to organize activities and determine milestones, target dates, staff, and resource requirements. This may trigger a procurement process for service providers, if needed.

Simultaneously, the ICANN organization recruits an Implementation Review Team which must include some volunteers who were involved in the PDP, though participation is open to other interested volunteers as well. Where relevant, the Implementation Review Team should also include technical and subject-matter experts from ICANN's contracted parties who can assist the ICANN organization in technical implementation planning, if applicable. Throughout both the Planning and the Analysis & Design Phase, the Implementation Review Team serves as resource to the ICANN organization, providing insight into the policy recommendations, including on background, rationale, and intent. The Implementation Review Team may also return to the GNSO Council for additional guidance as required.

The planning phase is completed when the ICANN organization presents the implementation project plan to the Implementation Review Team.

8 Analysis and Design

While the ICANN organization shares and discusses the draft Implementation Plan with the Implementation Review Team, the ICANN organization is also gathering requirement details, such as evaluation criteria, timelines, required specialized expertise, the need to modify existing services or create new services, etc. From these requirements, the ICANN organization designs and documents the operational processes needed to support the new policy.

The ICANN organization and the Implementation Review Team work towards agreement on the Implementation Plan, drafting new Consensus Policy language (if required) for the GNSO's policy recommendations, and developing any new or modified services that may be needed. Completed Consensus Policy documents are incorporated by reference into the ICANN organization's agreements with registry operators and registrars.

If any issues arise in analyzing and designing the policy implementation, the ICANN organization works with the Implementation Review Team to resolve them. The Implementation Review Team can also elect to refer an issue to the GNSO. To avoid issues that were previously debated in the development of final policy recommendations from resurfacing during the implementation phase, the GNSO Council liaison, in consultation with the Implementation Review Team, determines if the Implementation Review Team's level of consensus calls for raising the issue with the GNSO Council. If the GNSO Council liaison determines that a high level of consensus exists, the liaison informs the GNSO Council accordingly.

Issues referred to the GNSO must adhere to the Implementation Review Team Principles and Guidelines as well as the GNSO procedures for deliberations. Ultimately the GNSO determines whether to initiate a GNSO Guidance Process, a PDP, or seek further guidance on how to proceed.

The ICANN organization posts the proposed Consensus Policy language and implementation details for Public Comment, then compiles a staff report of the public comment proceeding after the Public Comment period closes. If the policy language and/or proposed service is materially changed following the Analysis and Design Phase's Public Comment period, the ICANN organization, in consultation with the Implementation Review Team, seeks further Public Comments on the updated language/service before it is implemented.

The ICANN organization, in consultation with the Implementation Review Team, defines a reasonable date by which contracted parties can implement changes to become compliant with the new Consensus Policy and publishes the effective date.

In parallel with the Public Comment period, the ICANN organization creates or modify tools, such as software systems or communications templates, needed to execute the service(s) of the new policy. In addition to tools, the ICANN organization identifies any additional expertise or capabilities needed and allocate the resources to support the

service(s). The ICANN organization may conduct procurement processes, in accordance with the ICANN Procurement Guidelines,¹ to obtain necessary resources.

9 Implementation

The ICANN organization communicates implementation details for the new Consensus Policy to the community and conducts targeted outreach to contracted parties during this phase.

The ICANN organization provides reminder notices about the upcoming policy effective date to contracted parties 30 days before the effective date and on the effective date. Formal legal notice, as required under the Registry and Registrar Accreditation Agreements, is provided to contracted parties and posted on the ICANN website in the “consensus policies” section.

The policy effective date marks the completion of the implementation phase of the new policy.

The ICANN organization develops education and outreach materials needed for socializing the policy changes across the contracted parties and the broader community. These may include webinars, FAQs, online documentation, status updates, and other forms of communication.

10 Post-Implementation

After policy implementation, the ICANN organization continues supporting the stakeholder community. Support includes publishing additional clarifications regarding the policy, implementing procedural improvements for added efficiency, or other efforts as needed. In some cases, the policy or an aspect of the policy may go through community review, in which case the ICANN organization supports these efforts as required.

¹ <https://www.icann.org/en/system/files/files/procurement-guidelines-21feb10-en.pdf>

The ICANN organization ensures compliance with the newly implemented policy through continuous monitoring and enforcement activities such as monitoring contracted parties' compliance, or operationalizing and delivering services defined in the Implementation Phase with input from the community.

New issues could arise after implementation, perhaps voiced from contracted parties' complaints to the ICANN organization or the ICANN Board, correspondence from the GNSO to the ICANN Board, or other concerns requiring review. Each issue with the policy will be resolved as appropriate on a case-by-case basis, consistent with the multi-stakeholder model.