Report of Public Comments

Title:	
Publication Date:	
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Comment Period:			**Important Information Links**	
Comment Open Date:	19 January 2015		Announcement	
Comment Close Date:	17 March 2015		Public Comment Box	
			Survey responses	
			View Comments Submitted	

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Section I: General Overview and Next Steps

Mainly as a result of discussions stemming from implementation related issues of the New gTLD Program, there has been increased community focus on which topics call for policy and which for implementation work, including which processes should be used, at what time and how diverging opinions should be acted upon. Following several discussions by the GNSO on this topic, the GNSO Council chartered a Working Group to develop concrete recommendations on how to address some of these issues from a GNSO perspective.

The WG started its deliberations in August 2013 relating to its tasks to provide the GNSO Council with recommendations on:

1. A set of principles that would underpin any GNSO policy and implementation related discussions, taking into account existing GNSO Operating Procedures.

2. A process for developing gTLD policy, perhaps in the form of "Policy Guidance", including criteria for when it would be appropriate to use such a process (for developing policy other than "Consensus Policy") instead of a GNSO Policy Development Process;

3. A framework for implementation related discussions associated with GNSO Policy Recommendations;

4. Criteria to be used to determine when an action should be addressed by a policy process and when it should be considered implementation, and;

5. Further guidance on how GNSO Implementation Review Teams, as defined in the PDP Manual, are expected to function and operate.

Preliminary Recommendation #1:
In response to Charter question 1, the WG developed a set of Principles that it recommends be adopted by the GNSO and the Board to guide future policy and implementation work. These Principles are detailed in Section 4 of the WG's Initial Report.

Preliminary Recommendation #2:
In response to Charter question 2, the WG proposes three new standardized processes
for GNSO deliberations regarding such issues as are also outlined in the high level overview in Annex B
(Recommendation #2) of the WG's Initial Report, namely:

1. **GNSO Input Process (GIP)** – to be used for those instances for which the GNSO Council
   intends to provide non-binding advice, which is expected to typically concern topics
   that are not gTLD specific and for which no policy recommendations have been
   developed to date. "Non-binding advice" means advice that has no binding force on
   the party it is provided to. It is the expectation that such input would be treated in a
   similar manner as public comments are currently considered by the entity (e.g. Board,
   NPOC, or WG) to which the input is provided.

2. **GNSO Guidance Process (GGP)** – to be used in those instances for which the
   GNSO Council intends to provide binding guidance to the ICANN Board, but which is
   not expected to result in new contractual obligations for contracted parties. "Binding
   guidance" means advice that has a binding force on the ICANN Board to consider the
   guidance and it can only be rejected by a vote of more than two-thirds (2/3) of the
   Board, if the Board determines that such guidance is not in the best interests of
   the ICANN community or ICANN. It is expected that this would typically involve
   clarification of, or advice on existing gTLD policy recommendations. This could be in
   response to a specific request from the ICANN Board but could also be at the initiative
   of the GNSO Council to an issue that has been identified.

3. **GNSO Expedited Policy Development Process** – to be used in those instances in which
   the GNSO Council intends to develop recommendations that would result in new
   contractual obligations for contracted parties that meet the criteria for "consensus
   policies" as well as the qualifying criteria to initiate an expedited PDP. Those qualifying
   criteria are (1) to address a narrowly defined policy issue that was identified and
   scoped after either the adoption of a GNSO policy recommendation by
   the ICANN Board or the implementation of such an adopted recommendation; or (2) to
   provide new or additional policy recommendations on a specific policy issue that had
   been substantially scoped previously, such that extensive, pertinent background
   information already exists.

Preliminary Recommendations #3 & #4:
In response to Charter questions 3, 4 and 5, the WG recommends that the GNSO's PDP Manual be
modified to require the creation of an Implementation Review Team following the adoption of the
PDP recommendations by the ICANN Board, but allow the GNSO Council the flexibility to not do so in
exceptional circumstances. The WG further recommends that the set of principles (outlined in Annex
H of the Initial Report) be followed as part of the creation as well as operation of IRTs.
Following its review of all public comments received on its Initial Report, the WG will finalize its
recommendations and prepare a Final Report for submission to the GNSO Council.

Section II: Contributors

*At the time this report was prepared, a total of six (6) community submissions had been posted to the Forum.
In addition, a further six (6) individuals had sent in responses to a Survey that the WG conducted as part of
the public comment process. The contributors, both individuals and organizations/groups, are listed below in
chronological order by posting date with initials noted, with survey respondents noted by an additional (-S)
after their initials. To the extent that quotations are used in the foregoing narrative (Section III), such*

citations will reference the contributor's initials.

Organizations and Groups:

Name	Submitted by	Initials
gTLD Registries Stakeholder Group	Paul Diaz	RySG
Brand Registries Group	Philip Sheppard	BRG
GNSO Business Constituency	Steve Delbianco	BC
GNSO Intellectual Property Constituency	Anne Aikman-Scalese	IPC
ICANN At Large Advisory Committee	ICANN At Large Staff	ALAC
Non-Commercial Stakeholder Group	Marika Konings (on behalf of Amr Elsadr)	NCSG
GNSO Internet Service Providers & Connectivity Providers Constituency		ISPCP-S

Individuals (those names marked with * did not complete the full Survey):

Name	Affiliation (if provided)	Initials
John Poole		JP-S
Carlos Gutierrez		CG-S
Heron da Veiga*		HV-S
Wisdom Donkor*		WD-S
Janet Shih Hajek*		JSH-S
Alan Greenberg		AG-S

Section III: Summary of Comments

General Disclaimer: This section is intended to broadly and comprehensively summarize the comments submitted to this Forum, but not to address every specific position stated by each contributor. Staff recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

On the WG's proposed definitions:
Most commentators found the WG's proposed working definitions helpful, with a few noting that they were "very helpful". With the exception of two individual commentators (JP-S and JSH-S), all other commentators supported adoption of the recommended Principles intended to guide future policy and implementation work. Several commentators (RySG, BC, IPC, CG, ALAC, AG) provided qualifications to their support, offering specific comments for further defining and clarifying the intention and scope of the Principles.

On the WG's recommendations for the three new GNSO processes:
The ALAC, AG-S, BRG and IPC expressed general support for new processes that would contribute to certainty and be appropriate for particular situations, with the ALAC and AG-S noting that certain complexities (such as where public interest issues emerge during implementation) may still need to be addressed further. The IPC noted that some recommended processes would require changes to the ICANN Bylaws. The BC commented that the recommended new processes addressed many (though not all) of its concerns and suggestions that it had included in its response to the WG's

solicitation for early input from the SO/ACs, GNSO Stakeholder Groups and Constituencies.

On the proposed GNSO Input Process:
The RySG, IPC, ISPCP and NCSG supported adoption of the proposed GNSO Input Process, while CG-S and AG-S expressed support subject to certain concerns being further addressed. JP-S did not support adopting the proposed GNSO Input Process.

On the proposed GNSO Guidance Process:
The IPC and ISPCP supported adoption of the proposed GNSO Guidance Process, while the RySG, NCSG, CG-S and AG-S expressed support subject to certain concerns being further addressed. JP-S did not support adopting the proposed GNSO Guidance Process. There was no consensus among the commentators as to whether an ICANN Advisory Committee should be able to initiate (in addition to their ability to request that the GNSO Council initiate) a GNSO Guidance Process, with two commentators (RySG, IPC) suggesting certain conditions for when this could occur. While most commentators agreed that the voting threshold to initiate the process should be the same as for the current GNSO PDP, the NCSG suggested that it should be a higher threshold. Most commentators, however, supported the view that the voting threshold to approve the outcome of a GNSO Guidance Process should be a supermajority vote of the GNSO Council.

Regarding the requisite level of Board support for the outcome of a GNSO Guidance Process, the IPC, RySG, JSH-S and AG-S agreed that the same threshold as currently required in the Bylaws for the Board to not approve a "normal" PDP should apply. However, ISPCP, NCSG and JP-S believed that the Process should fail without supermajority support.

Regarding the voting threshold required to terminate the Process, the RySG, NCSG, CG-S, JSH-S and AG-S agreed that a simple majority vote should suffice. However, JP-S and the IPC disagreed, with the IPC suggesting that a supermajority vote should be required.

On the proposed Expedited PDP:
The IPC, ISPCP and CG-S supported adoption of the proposed GNSO Expedited PDP, while the RySG, NCSG and AG-S expressed support subject to certain concerns being further addressed. JP-S did not support adopting the proposed GNSO Expedited PDP. Most commentators supported the concept that only the GNSO Council can initiate an Expedited PDP.

On the required (unless in exceptional circumstances) use of an Implementation Review Team:
Most commentators supported this recommendation. Similarly, most commentators approved of the recommended principles governing the creation and operation of such Teams (as outlined in Annex H of the WG's Initial Report). The IPC and NCSG provided suggestions for refining the principles, while JP-S and CG-S did not support their adoption.

Section IV: Analysis of Comments

> *General Disclaimer:* *This section is intended to provide an analysis and evaluation of the comments received along with explanations regarding the basis for any recommendations provided within the analysis.*

The GNSO Policy & Implementation Working Group is responsible for analyzing the comments

received and make a determination what changes, if any, will need to be made to the report and recommendations. Once this work is complete, this analysis will be available here: https://community.icann.org/x/iSmfAg.