

SUMMARY OF THE REPORT OF THE BGC GNSO REVIEW WORKING GROUP ON GNSO IMPROVEMENTS

*****FOR DISCUSSION AND PUBLIC COMMENT ONLY*****

The Board Governance Committee (BGC) created a working group, comprising current and former Board members, to oversee improvements to the Generic Supporting Names Organization (GNSO). The purpose of the “BGC GNSO Review Working Group” (BGC WG) is to consider the reviews conducted by the London School of Economics Public Policy Group and others to determine whether, in general, the GNSO has a continuing purpose in the ICANN structure and, if so, whether any change in structure or operations is desirable to improve its effectiveness. The Board charged the BGC WG with recommending a comprehensive proposal to improve the effectiveness of the GNSO, including its policy activities, structure, operations and communications.

This Report on GNSO Improvements (Report) summarizes our examination of many aspects of the GNSO’s functioning, including the use of working groups and the overall policy development process (PDP), and the structure of the GNSO Council and its constituencies. We have been guided by several key objectives, including (i) maximizing the ability for all interested stakeholders to participate in the GNSO’s processes; (ii) ensuring recommendations can be developed on gTLD “consensus policies” for Board review, and that the subject matter of “consensus policies” is clearly defined; (iii) ensuring policy development processes are based on thoroughly-researched, well-scoped objectives, and are run in a predictable manner that yields results that can be implemented effectively; and (iv) improving communications and administrative support for GNSO objectives. Above all, we have sought ways to improve inclusiveness and representativeness in the GNSO’s work, while increasing its effectiveness and efficiency. Our deliberations have achieved consensus on a comprehensive set of recommendations that addresses five main areas:

Adopting a Working Group Model: A formalizing working group model should become the focal point for policy development and enhance the process by making it more inclusive and representative, and – ultimately – more effective and efficient. This approach can be a more constructive way of establishing where agreement might lie than task forces, where discussion can be futile because the prospect of voting can polarize the group. It also enables key parties to become involved in the beginning and work together to address complex or controversial issues. Steps should be taken immediately to move to a working group model for future policy development work, developing appropriate operating principles, rules and procedures that can draw upon expertise gained from policy development in the IETF, W3C, RIRs and other organizations.

Revising the PDP: The PDP needs to be revised to make it more effective and responsive to ICANN’s policy development needs, bringing it in-line with the time and effort actually required to develop policy, and making it consistent with ICANN’s existing contracts (including, but not limited to, clarifying the appropriate scope of GNSO “consensus policy” development). While the procedure for developing “consensus policies” will need to continue to be established by the Bylaws as long as required by ICANN’s contracts, Council and Staff should propose new PDP rules for the Board’s consideration and approval that contain more

flexibility. The new rules should emphasize the importance of the work that must be done before launch of a working group or other activity, such as public discussion, fact-finding, and expert research in order to define properly the scope, objective and schedule for a specific policy development goal, as well as metrics for measuring success.

Restructuring the GNSO Council: The Council needs to be moved away from being a legislative body heavily focused on voting towards becoming a smaller, more focused strategic entity, composed of four broad stakeholder groups, with strengthened management and oversight of the policy development process and the elimination of weighted voting. We recommend a 19-person Council consisting of 16 members elected from four stakeholder groups, with two of these groups being “suppliers” and two being “users,” as follows: registries, registrars, commercial registrants and non-commercial registrants. In addition, 3 Councilors would be appointed by the Nominating Committee (pending that review). The precise names of the four stakeholder groups, exactly how the two “demand” groups might be defined and other issues regarding this configuration, are questions on which GNSO input will be particularly important before the Board makes a decision. Indeed, the GNSO should have the flexibility to propose an alternative configuration of the stakeholder groups that comprise the “demand” side, but any deviation from the proposal outlined in the Report would have to be approved by the Board. As the Council moves from being a legislative body to a strategic manager overseeing policy development, formal voting should be minimized.

Enhancing Constituencies: Constituency procedures and operations should become more transparent, accountable and accessible. The Council should develop participation rules and operating procedures for all constituencies for Board approval. The criteria for participation in any ICANN constituency should be objective, standardized and clearly stated. In addition, Staff should work with constituencies to develop global outreach programs aimed at increasing participation and interest in the GNSO policy process, including information on the option to self-form new constituencies.

Improving Coordination with ICANN Structures: There should be more frequent contact and communication between the GNSO and members it elects to the Board, and among the Chairs of the GNSO, other Supporting Organizations (SOs) and Advisory Committees (ACs), especially before each ICANN Meeting. The Council should also consider other ways to improve further GNSO cooperation and coordination with other ICANN structures.

The Report describes our recommendations and rationale in detail. We believe there is broad and strong support for changes in the functioning of the GNSO, based on input from GNSO participants and other members of the ICANN community. While the need to update and improve the GNSO is not disputed, there is no magical set of proposals that could be received without controversy or opposition. We have therefore balanced, as best we can, different – and sometimes competing – interests in order to formulate recommendations on the basis of what we believe can benefit the ICANN community as a whole.

The Report will be posted for public comment on the ICANN website and discussed at a Public Forum during the ICANN Meeting in Los Angeles before being presented to the Board. As the

community and the Board consider the proposals outlined in the Report, it is important to keep in mind that this is an evolutionary process intended to reflect the importance of the GNSO to ICANN and to build upon the GNSO's successes to date.