

#	Who	Comment	Westlake Response
1.	IPC	Page 79: "Unlike other stakeholder groups, the CSG does not have an executive committee...." This is factually incorrect. There is a CSG Executive Committee.	Draft modified to address this.
2.	IPC	Page 80: The CSG "does little more than serve as a point of aggregation for voting and feedback to Council." This is one thing that the CSG does NOT do (except in exceptional cases). There is no "aggregation" of "voting and feedback" -- each constituency acts, votes and speaks independently, and does not aggregate votes or aggregate feedback as a general matter. From time to time, the constituencies will take the exceptional step and speak with a combined voice, but this is the exception, not the rule.	Draft modified to address this.
3.	IPC	Page 81: "The Intellectual Property Constituency does not appear to be successful in attracting new members." This appears to be an uninformed overstatement. What are the metrics for defining 'success'? How is IPC compared to other constituencies?	Draft modified to address this.
4.	IPC	Page 88: "The following SGs/Cs do not make membership information publicly available ... IPC." This is incorrect; see <a href="http://www.ipconstituency.org/current-membership/">http://www.ipconstituency.org/current-membership/</a> .	Draft modified to address this.
5.	IPC	Page 89: "The IPC raises funds by getting members to sponsor specific things such as attendance at related conferences and governance groups." This is incorrect. The IPC raises funds solely through membership dues, which provide foundational and critical financial support to the IPC.	Draft modified.
6.	IPC	Page 90: "Some respondents suggested that lawyers acting for clients may even have an incentive to protract processes for their own gain." This sort of statement is not helpful. This all but states - with no factual basis whatsoever -- that lawyers involved in ICANN (in IPC or otherwise) are unethical and bilking their clients.	Draft modified to address this.

7.	IPC	Page 103: "A few concerns were raised that the NCPH is dominated by the IPC, which was considered to be well resourced, and not transparent about its members' interests or their sponsors (as discussed in more detail in Section 6)." This is untrue. The report should explain how IPC is said to "dominate" the NCPH; so such suggestion could be proved ridiculous. The myth that IPC is "well resourced" is another falsehood. We have many members who cannot afford to get to meetings or otherwise meaningfully participate because of the unpaid time commitment. We have others who participate but have to fight for the support within their organizations. As for the transparency issue, IPC membership is posted, and IPC members are bound to follow all other ICANN guidelines with respect to disclosure of interests.	Draft modified to address this - but these perceptions were raised with us.  Draft modified to address this.
GNSO RWP Call 03/03			
8.	Bill Drake	P6: General comments on methodology, statistical validity	Draft modified to address this.
9.	Philip Sheppard	P8: Define 'effectiveness' (WGs).	Community responsibility to define and measure
10	Philip Sheppard	P9: Comments on timely delivery of policy by WGs, and correlation between attrition and achievability	Response provided during call - refer transcript
11	Stephanie Perrin	P11: Knowledge threshold required to contribute is a significant barrier to new participants	Added comment re knowledge to Section 5.4.3
12	Mike Rodenbaugh	P17: What interrelationship between this Review and the Policy & Implementation PDP?	We have referenced the P&I PDP but these are separate
13	Philip Sheppard	P18: Please include Sept 2013 Board Resolution - GNSO structure	See comment on ref # 22 below

14	Stephanie Perrin	P23: Methodology around selection for interviews	Draft modified to address this.
15	Bill Drake	P23: Did negative comments about NCUC come from 360 or interviews?	Response provided during call - refer transcript
16	Philip Sheppard	P27: Charters of SGs permits new Cs only in CSG and NCSG. The charters of RrSG and RySG do not allow for new constituencies	Draft modified to address this.
17	Bill Drake	P31: Filtering process for people to comment on specific SGs and Cs?	Draft modified to address this.
18	Stephanie Perrin	P33: Concerns about our recommendations on selection for travel assistance: need to trust the SGs to be a part of the decision.	Draft modified to address this.
19	Philip Sheppard	P35: "Hope we're going to see some substantial innovative and interesting and future-looking conclusions in Section 10."	
20	Mike Rodenbaugh	P39: Timing way too fast.	Timeline extended following the call
21	Stephanie Perrin	P41: Essential for the report to be future orientated, which they haven't seen yet, and they'll need time to review and comment. These would be the most important aspects.	Refer Section 9 of updated draft report
22	Philip Sheppard	<p>1. Page 6: Context for this review</p> <p>It is suggested that this key ICANN board resolution is included:  In its <a href="#">resolution</a> of 28 September 2013 the ICANN Board stated:  <i>"The expansion of the TLD space has increased the number and variety of stakeholders participating in GNSO policy making and a review needs to take place on schedule to examine whether the current model meets the needs of <b>a new generation</b> of stakeholders.</i>  <i>GNSO Structure is unlikely to accommodate the anticipated new stream of stakeholders resulting from the expansion of the TLD space. The GNSO Review will be an important vehicle for considering and addressing this issue. <b>The unbalance that is already occurring</b> needs to be addressed by the GNSO Review. "</i></p>	Draft modified to address this.

23	Philip Sheppard	<p>2. Page 79 <i>“A case was put to us that the existing division of constituencies does not well serve “brands” that are, increasingly, acquiring their own TLDs in which they can be registries, registrars and business users, and within which policy rules may be different from open TLDs.”</i></p> <p><b>Suggest clarification:</b></p> <p>A case was put to us that the existing GNSO Structure fails completely to serve “brands” that are, increasingly, acquiring their own brand registries. The business objective and internal policies of brand registries are radically different to the open registries around which the current GNSO was created. The charter of the Registry Stakeholder Groups does not allow for constituencies but a looser concept of Interest Groups. Moreover, the arrival of brand registries challenges the very basis of the current GNSO structure with its division between users (the CSG and NCSG) and contract parties (RSG and RySG). A brand may well be simultaneously: a registry, a business user or a non-commercial user, and have intellectual property interests.</p>	Draft modified to address this.
24	Philip Sheppard	<p>3. Page 91 <i>“The changing environment drives a requirement for flexibility in policy-making and representative structures. An example of this is the interest of brands in new gTLDs – brand owners potentially become registries, registrars and users of domains, as well as maintaining their obvious interests in intellectual property. In theory the current GNSO structure provides for the creation of new constituencies so that a wider range of views can be represented.”</i></p> <p>Suggest clarification to paragraph 2:</p> <p>The current GNSO structure, which predates new types of TLDs, and the underlying charters of the stakeholder groups provides for the creation of new constituencies only in two of the four Stakeholder Groups (Commercial SG and the Non-Commercial SG). The charters of the Registry Stakeholder Group and the Registrar Stakeholder group do not allow for new constituencies.</p>	Draft modified to address this.

25	Philip Sheppard	<p>4. Page 63  There may well be further comments on 7.4.4 where Westlake text is in preparation:  <i>7.4.4 BGC WG Recommendations 10 and 11.</i>  <i>(Restructure Council membership and councilor term limits).</i></p>	Noted - but note numbering has changed
26	Stephanie Perrin	<p>P. 10. Second survey on PDPs was not advertised as well as it might have been....not a good sample size. I would have filled it out, did not know.</p>	It was publicized extensively by ICANN and the Working Party
27	Stephanie Perrin	<p>P. 11. I am admittedly more accustomed to independent review performed by governments, where review is done by officers of Parliament and is quite independent, usually monitored by internal auditors to ensure appropriate distance. However, I must point out that if Westlake was talking to staff and receiving guidance from them on a daily basis, with weekly calls, this is hardly an independent review. I would also note that I recognize 7 of the interviewees as staff (and I may be missing some as I don't recognize all the names, and some more could be in the anonymous interviewees) but even at 7 that is 18% of a very small sample. Staff are terrific resources, but I think this survey should not rely so heavily on staff observations and interventions. Perhaps they could be analysed separately?</p>	Noted

28	Stephanie Perrin	p.40-41. The concept of a trained, independent facilitator to lead working groups is an interesting one. However, my experience with the EWG in 2012-13 did not lead me to think that this route is necessarily going to be more fruitful than training the community in leading process, and in respecting diversity and difference of opinion. It is my observation, after two years participating at ICANN, that it would be very appropriate for ICANN to take a serious look at the human resources issues underlying the operation of a successful multi-stakeholder community. The vantage points, economic conditions, and motivations of the stakeholders, and therefore the actual workers on PDPs, are so vastly different that it is a tribute to leadership and to the staff that anything actually gets done at all. However, if ICANN is serious about addressing diversity, language, and gender issues...it needs to look at HR practices (and I mean the behavior, ethics, and deportment of volunteers). They are the ones allegedly doing the work...without minimizing the massive contribution of staff, they must remain the ones doing the work, or this will not be a multi-stakeholder model.	Noted
29	Stephanie Perrin	I do not agree with the recommendation on Page 42, to use a paid facilitator when there are conflicting views. The EWG was tasked to solve a very difficult issue, and while I liked the facilitator very much, I think he exemplified how very difficult it is to bring external individuals in to chair such arcane discussions....in fact, he did not chair the meetings, nor did he understand the final report or the dissent. If you wish to try it, do a pilot, and a very thorough evaluation. The contractor should report to the PDP, not to staff. Start with something that is not too complex.	Noted
30	Stephanie Perrin	P.46. Again, my experience comes from government, in a regulatory environment, or with international standards bodies. The threshold that I had to meet with my team, in assessing and taking into account or dispensing with comments appears to be higher than the one at ICANN. Nobody should go to the work of creating thoughtful comments if they are not going to be taken into account in a serious manner. I think a lot more work needs to be done in this area.	Noted

31	Stephanie Perrin	p. 50. I appreciated the quote cited about the fact that very little impact assessment on end users is done. I have recommended repeatedly that ICANN needs to do the equivalent of a regulatory impact assessment or RIA on end users and stakeholders who are not necessarily represented in the ICANN community, or who are represented in a global sense by civil society (NCSG and ALAC). This would require independent assessment, which I don't believe has been done.	Draft modified to address this.
32	Stephanie Perrin	P. 52. Re the lack of a strategic plan....yes, I find it a bit odd too, but it speaks to the somewhat ad hoc manner in which ICANN has developed.	Noted
33	Stephanie Perrin	P.60. In the matter of whether the Board or the Council should veto the work of the PDPs....this needs more work. It is quite possible that the representation on a PDP might be skewed, and not represent the interests of all stakeholders, particularly end users. In this case it might be appropriate for either party to raise fresh issues. Obviously, it would be hoped that these would be raised in the comments phase but sometimes it appears this does not happen. In my view, the comments process is not working as well as it should for a quasi-regulatory process, so until it does, the possibility of sending something back for further review, further comments or study should be on the table.	Draft modified to address this.
34	Stephanie Perrin	P.63. It is a fact that there is volunteer burnout. It is a fact that the same people volunteer over and over again for the WGs/PDPs. In my opinion, one of the drivers (and I am serving on four of these at the moment, as well as working on constituency matters and the GNSO) is that it is quite hard to predict which ones will have legs, and hard to stop something once it gets up a head of steam. The workload is crushing, particularly for volunteers whose income sources have nothing whatsoever to do with ICANN or its policy and implementation agenda. This should be a major focus of this review, and I would like to see some recommendations about how this workload could be distributed differently. I have no ideas myself, it seems to me that breaking pdps into clumps usually means the same volunteers (at least in civil society) will be covering all the clumps, possibly in a thinner manner. Similarly, I don't think issues can be parked for years. I will be interested in what you come up with	Noted

35	Stephanie Perrin	<p>P.66. There are definitely gaps in the skill sets of participants at ICANN. Coming from a government/policy/regulatory background, I notice gaps in knowledge of project management, accountability and governance mechanisms, policy development and assessment processes, impact assessment, and certain critical areas of law (eg. Privacy law, human rights). I took the leadership training course, and found it useful, but it was focused on people skills, which In general I applaud, and perceive as a necessary training area for ICANN stakeholders. However, I also need help with my gaps and lack of technical background. Personally, I would like to take a deep dive course on how the DNS actually works (rather than tire out patient registrars and registry operators who explain things to me.). I took the Meissen school course at my own expense, and found it very useful....but it was a fast look at so many aspects of this complex field of endeavor that I think I would need that course to be three weeks long to answer all my questions. I should note that I have worked in information policy in the Canadian government since 1981, and I am also a doctoral candidate at the University of Toronto Faculty of Information studying ICANN (year 5) so frankly if I don't understand many aspects of these matters, I would venture to suggest that I am not alone. The current discussions on the IANA transition are certainly confirming my belief that many folks have gaps, not just us newcomers. It is a good thing to profess ignorance, in my view, and the prevailing discourse needs to change so that newcomers will not feel irrelevant (or worse, stupid) when they admit that they do not know everything. This is a long-term project in my view, and support should be given to the ICANN academy to develop deeper courses on a variety of material. In the meantime, a gap analysis would be useful.</p>	Noted
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37	Stephanie Perrin	<p>P.88-90. As stated above, I think the SOIs are inadequate. Many stakeholders at ICANN have significant financial interests in outcomes, which are known to and understood by insiders (who may be past or present business associates or competitors) but which are not going to be understood by newcomers, particularly those coming from foreign countries or different backgrounds. In the interests of transparency and ethics, a more comprehensive approach to disclosure is warranted. This would apply to the non-commercial realm as well, and may help guard against the inclusion of civil society actors who are in fact working for government or business. This is not to suggest that governments and business do not work for the benefit of end-users, including for consumer protection, but the transparency of the economic situation of volunteers is important, and individuals who are on salary in a business or government institution are in a different category as volunteers.</p>	Agree, no change made to report
38	Stephanie Perrin	<p>P.92. I agree that incumbency is a problem, but the idea of cutting off the “lifers” strikes me as shooting ourselves in the foot. Furthermore, some of the folks who have been around for a long time are the best chairs. As examples, I might select Chuck Gomes, Don Blumenthal and Steve Metalitz, who chair/co-chair PDPs I am on, and who in my view do an absolutely first-rate job of chairing. Lets not move to get rid of veterans until we can be sure that we have well-trained, knowledgeable folks coming up in the ranks. I would note in that context that Graeme Bunton, who co-chairs the PPSAI with Steve Metalitz, is a relative newcomer and is also doing a great job, doubtless assisted by working side by side with his colleagues. This kind of mentoring is essential in my view. The democratic process of selecting chairs appears to be working....and if it is not, lets have a look at improving it and providing for mentoring and “apprenticeship” rather than imposing arbitrary limits. I for one would not be able to manage as many PDPs as a volunteer if the difficult task of chairing were not well managed. In the recommendation that says constituency travel should be decided by ICANN, to whom individuals would have to prove their contributions would be valuable....how on earth would that be decided? Constituencies should manage their own representation. Don’t get ICANN staff involved in this</p>	Draft modified to address this.

39	Stephanie Perrin	<p>P. 99. Over my 30 years in the Canadian government I was involved at the working level (Senior analyst/manager/ director) in many international organizations, either directly or as part of a team where other members represented us more actively. This would include the ITU, COE, GATT, trade negotiations such as FTA and NAFTA, G8 and G20 meetings, and notably in my case the OECD and the International Conference of Data Commissioners. In this context, I find the GAC to be one of the more peculiar committees that I have seen. I am curious as to why ICANN responds the way it has done over the past years, and interested in the GNSO efforts to further systematize the way GAC “advice” is analyzed and acted upon. I would suggest that it requires further study. I would be grateful if this committee could point me to further reading on the GAC, its evolution and representation, and the background to the strategic approach which the Board has taken in heeding GAC advice.</p>	<p>Noted. Review of GAC is outside our scope.</p>
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<p>40 Stephanie Perrin</p>	<p>P. 103. The following quote from the text regarding the recent NCSG elections is, in my view inflammatory. I regard it as inaccurate, and I would request that Westlake Associates change it prior to releasing the draft for comments:</p> <p><i>It was widely commented by survey respondents and interviewees that the NCSG has issues that inhibit its effectiveness. Essentially the NCUC, dominated by small or single person groups, is always likely to have the numbers to out-vote NPOC, which represents often larger but fewer NPOs. All four NCSG members recently elected to the GNSO Council have come from the NCUC because it has a far greater number of members than the NPOC, and voting is 'first past the post', rather than a form of proportional representation.</i></p> <p>Since I am one of the four elected new NCSG members, I may be taking this paragraph rather personally, but I think Westlake should refer readers to the rules on voting procedure rather than citing a comment as gospel. The tacit assumption appears to be that each constituency only votes for its own members, which I know is not the case. Anyone can examine the voting numbers and see this. NPOC only ran one candidate in this election. Given the geographical distribution of seats (no more than two seats from each region, to the extent possible, and one North American seat is occupied for another year) and the fact that the only NPOC candidate was from North America, as I am, it meant that I was competing with their only candidate. Since all other candidates were assured of a seat because no one ran against them, it might have been prudent for NPOC to have encouraged their folks from other regions to run as well. In any case, I think it is inappropriate to state as fact either that NCUC can always outvote NPOC, or that the weighted voting does not actually work in favour of NPOC (see below). The bottom line remains, members have to volunteer to run, and members have to remember to vote. Hopefully, they will vote for the person they feel will represent them best and work hard for the issues they care about, not just by constituency block. I believe the NCSG voting system does a pretty good job of promoting that outcome at the moment, and would be interested to see facts about how some other system could produce a better outcome.</p>	<p>Draft modified extensively to address this.</p>
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41	NCUC	<p><i>1. The study seems to have a constantly changing and imprecise design that meanders between various means of investigation without fully investing in any one.</i></p> <p>As a qualitative study there is no perceptible strategy or control other than the relay of “observations” of Westlake staff and the selected use of anecdotes from unidentified parties. A clearly defined narrative approach may have proven useful here but there is no indication that was ever considered or acted upon. The quantitative aspects of the study lack any rigor or application of standard statistical sampling or analysis techniques. Samples are generally undefined and too small to generate the conclusions extrapolated from them. Adjustment of methodology mid-study (e.g. the Supplementary Working Group survey) raise questions of corrective measures polluting the findings (e.g. strategic sampling).</p>	Scope and methodology agreed with and approved by Review Working Party
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<p>42 NCUC</p>	<p>2. All aspects of sampling in this study are problematic. The criteria used by Westlake for inclusion of subjects in various components of this study is unclear. There does appear to be some application of snowball sampling techniques in this work, which is itself a problem. Although useful when researching hard to identify or locate populations, snowball sampling is not a preferred technique when conducting research into easily identifiable, bounded (and divided) communities like the GNSO. There is no indication that the sample used in the quantitative portion of this study was a result of anything other than self-selection. We are told that the quantitative portion of the study is based upon 152 surveys completed by 250 individuals who initially accessed the survey site. The Report states “this provided a wide and representative sample” (p. 8). We see no evidence of this. There is no indication as to general population size, response or rejection rates, or precise subgroup identification of those who responded. We have no indication that this survey provides results representative of the GNSO community as claimed.</p> <p>Although we have no indication as to the statistical validity of the 360o survey with reference to the general community, we can demonstrate that the subgroup responses relating to Constituencies contained on pages 78 and 79 of this draft Report have no practical value.</p> <p>For example, in the Table on pg. 78, the draft report shows that just 52% of the subgroup responding about NCUC believe that “the executive committee of the group is balanced and appropriately representative”. This is based upon a cohort of 27 respondents. There is no indication whether these 27 individuals are all NCUC members (which would be surprising, given that the 360o review was conducted while we were gearing up to elect five regional representatives to the Executive Committee, EC) or self-selected to answer questions related to the NCUC based on whatever level of familiarity they had with our elections and EC composition. But if all were NCUC members, a best case scenario for survey relevance, consider the statistical validity of this small sample:</p> <p>Number of NCUC members: 404 NCUC respondents: 27  Desired confidence level: 95% Agreement Percentage: 52% Confidence Interval: 18.23</p> <p>In this specific instance, if all 27 respondents attributed to the NCUC were NCUC members, something not in evidence, all that can be inferred from this question is that, with a 95% level of confidence, somewhere between 33.77% and 70.23% of NCUC members agree with the statement “the</p>	<p>Draft modified extensively to address this.</p>
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43	NCUC	<p>Parenthetically, the Table on pgs. 78-79 should not be introduced with the misleading phrase, “This table shows the extent to which,” because it does not. It shows the extent to which respondents made certain assertions, irrespective of their relationship to actual facts (some of which easily could have been checked, for all SG/Cs concerned).</p>	Draft modified to address this.
44	NCUC	<p><i>3. The analysis is replete with generalities not adequately linked to facts. This is particularly problematic when so much of this study is based upon Westlake’s observations and selected anecdotes.</i></p> <p>A high degree of approximation occurs throughout the study. Consider these examples: “There was a view that” (p. 82); “anecdotal but credible instances” (p. 7); “we received no comment...based on this, we conclude this is no longer a significant issue” (p. 95); “some survey respondents” (p. 81); “there is a perception among some” (p. 81); “there is an often expressed view” (p. 90); and “we encountered active hostility to new leaders from a few participants” (p. 90). Instead of some, how many? Instead of often, how often?</p> <p>A professional study should have recommendations based on specific facts in evidence. Too often this study does not. Of particular concern are the Westlake Review Recommendations on page 92 of this Report. Several of these recommendations, such as those involving travel, are not supported by anything substantive previously discussed in the draft Report.</p>	Noted

45 NCUC	<p>4. Quotations used in this study are completely stripped of context and because of this are of limited value.</p> <p>It is certainly understandable that the identity of respondents are kept confidential. What is hard to understand is why other information, such as constituency or stakeholder group membership or other demographic information, is not provided. Knowing something about the speakers' backgrounds adds context, value and enables one to better understand the comments themselves.</p> <p>A professional study of this type should have as its base proper design, a reliance upon facts obtained in a credible and transparent manner that meet basic standards of empirical research. This study does not, as is acknowledged at times by its own authors. Until it does, any recommendations made by Westlake should be considered as emanating from a flawed and poorly constructed study.</p>	Noted
46 NCUC	<p><i>Accessibility</i></p> <p>The draft Report notes that barriers to participation in constituencies include linguistic (e.g. p. 84) and financial roadblocks (p. 89). Regarding the former, NCUC is trying to make our basic materials available in multiple languages, e.g. our outreach brochure is available in both English and Spanish. We hope to expand this effort, but whereas ICANN provides considerable language translation services to some segments of the community, it does not provide any at all to NCUC, which means members must donate their time to translate.</p> <p>Regarding the latter, thanks to our own fundraising and management of scarce resources, we have recently committed to spending up to \$4,000 per ICANN meeting to enable one or two NCUC members to come to the meetings who would otherwise not be able to afford to attend <a href="http://www.ncuc.org/governance/travel-policy/">http://www.ncuc.org/governance/travel-policy/</a>. We just had a young African new member attend the Singapore meeting in this manner.</p>	Draft modified to address this.



47	NCUC	<p><i>Transparency</i></p> <p>The NCUC is a completely open and transparent network. The draft report calls for open membership lists published on the Constituency website (p. 88). Ours is at <a href="http://www.ncuc.org/about/members/">http://www.ncuc.org/about/members/</a>.</p> <p>The Board Governance Committee called for open mailing lists that are publicly archived (p. 67). The NCUC has always done this with all of its mailing lists: <a href="http://lists.ncuc.org/cgi-bin/mailman/listinfo">http://lists.ncuc.org/cgi-bin/mailman/listinfo</a>.</p>	Draft modified to address this.
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48 NCUC	<p><i>Diversity</i></p> <p>The NCUC supports the call for increased diversity within ICANN. (e.g., p. 74-75). In terms of membership numbers, we are arguably the largest and most diverse constituency within the GNSO. It bears emphasizing that NCUC currently consists 404 members from 93 countries, including 102 noncommercial organizations and 302 individuals.</p> <p>We recognize the problem identified by the draft's authors concerning the predominance of individuals from developed countries in the GNSO (e.g., p. 70, p. 84). We are having success in changing the balance through volunteer outreach efforts. As currently constituted, a quarter of our current membership comes from, respectively, North America and Europe. Africa makes up nineteen percent of our member roll, Asia-Pacific just under eighteen percent and South America 12 percent. We can and want to do better, but we are already making progress in bringing individuals and noncommercial organizations from the developing world into ICANN.</p> <p>Our leadership is equally diverse. The NCUC EC is elected by region, with one member each from North America, Europe, Asia-Pacific, Africa and South America. We note the draft report's specific call for more participation from individuals from China and India (p. 87). We are pleased to note that one current member of the NCUC EC is a resident and citizen of the Peoples Republic of China. His predecessor was from India. We have experienced membership growth from both countries. Relative to any other GNSO constituency, NCUC continues to be the most diverse geographically.</p> <p>We do have term limits for our EC members (three years) as recommended by the Board Governance Committee (p. 67).</p> <p>The facts are clear: The Noncommercial Users Constituency is a leader in the GNSO in terms of accessibility, transparency and diversity. Yet the draft GNSO review does not acknowledge this, and instead portrays us as singularly problematic. The Report's faulty methodology and curious inclusion of individual negative comments results in a picture of the NCUC that is fundamentally inaccurate.</p>	Draft modified to address this.
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49 NCUC	<p><b>VERIFIABLE FACTS</b></p> <p>One of the more unsettling aspects of the draft Report is its substitution of opinion or conjecture for data that is readily available. We note that the authors of this independent study were guided in this process by ICANN staff who “on several occasions have directed us to information that we might not otherwise have been aware of or otherwise been able to find” (p. 11). We certainly would have welcomed the same opportunity at an earlier time to help and guide the Westlake team in this manner.</p> <p>We need to reiterate that the small sample size involved in the ‘numeric results’ of the 360o survey renders any result from the ‘Stakeholder Groups and Constituencies’ section of the survey invalid. In fact, by acting as if these numbers have statistical validity, the authors of this report are misleading the GNSO community. The confidence interval is simply too large and the sample not random enough for any inference to the larger NCUC population to be made on the basis of this study.</p>	<p>All constituencies/SGs were given repeated opportunities, starting with the 360. 360 closing date was extended several times, with multiple channel outreach. Draft modified to address this. The reviewers were supported not ‘guided’ by ICANN staff.</p>
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50 NCUC	<p><i>“The Non-Commercial Stakeholders Group, unlike its commercial counterpart, has an executive committee. Some survey respondents considered this was lacking in balance and resisted new members. Several survey respondents and interviewees noted that leadership positions remain in the hands of only a few people.” (p. 81)</i></p> <p>How widespread is this perspective? ‘Some’ or ‘several’ are approximations that should not be used when precise data is available and easily obtained. This study consisted of a survey completed by 152 respondents, limited interviews of “about 40” individuals (p. 9) and supplemental interviews of “fewer than 20 or so” (p. 10). What are the precise numbers?</p> <p>One wonders why these survey responses are flagged in the text when the same was not done with respect to other SG/Cs, for which the relevant numbers are not so different. Based on figures in the Table at pgs. 78-79, the draft could just as easily have observed that “some survey respondents considered that the [insert almost any SG/C name] EC is lacking in balance and resists new members.”</p> <p>In any event, factually this “perspective” is incorrect, no matter how few or many people hold it.</p> <p>The NCSG Executive Committee (EC) is balanced: two members appointed by the NCUC and two members appointed by the NPOC. The Chair is elected by the entire Stakeholder Group and is limited to two consecutive one-year terms. No Chair has been re-elected following their term limits. The NCUC EC appoints the constituency representatives on the NCSG EC. Our 2015 representatives include one incumbent and one new appointee. There has been turn-over in previous years as well. A factual comparison of leadership turn-over across SG/C’s would have been rather more useful than such unsubstantiated assertions.</p>	Draft modified to address this.
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51	NCUC	<p><i>“The NCSG is perceived by some as actively obstructing membership applications for the NPOC.” (p. 81)</i></p> <p>Once again, the problem of approximation when precise data is available. How many is ‘some’?</p> <p>Membership applications to the NCSG are considered, then accepted or rejected by the NCSG EC. The NPOC has two appointed representatives on this Committee and its membership participates in the election of the Chair. Membership applications are only rejected for cause, which in practice has principally meant that the applicants were not truly non-commercial organizations. As a noncommercial stakeholder group it is essential that members are truly noncommercial---applicants with commercial components are not eligible for membership. ‘Obstructing’ membership applications for any reason is not a valid cause and does not occur.</p> <p>It should be noted that there are remedies, such as formal complaints with the Ombudsman, within ICANN that aggrieved parties can access should they believe the NCSG membership admissions process has treated them unfairly. We are unaware of any such complaint. Furthermore, the NCSG Charter provides the means for members of the stakeholder group who disagree with the EC’s practices to petition for a change to them. No such petitions have ever been lodged.</p>	Draft modified to address this.
52	NCUC	<p><i>“The membership application process is not transparent or thorough. The applications are on a server that only 1 member can access.” (p. 81)</i></p> <p>Not true.</p> <p>All members of the NCSG EC have access to the spreadsheet containing applicant data. Applicants with queries about their application status, or anything else, are encouraged to contact the NCSG Chair through an e-mail link provided on the website:</p> <p><a href="https://community.icann.org/display/gnsononcomstake/Membership">https://community.icann.org/display/gnsononcomstake/Membership</a>.</p> <p>The membership application process is transparent. It is also thorough. All five members of the NCSG EC vet each applicant for membership eligibility before approval is given.</p>	Draft modified to address this.

53	NCUC	<p><i>“The badly designed membership process between NCUC and NPOC further complicates things, placing organizations in the NCUC when they should be in NPOC.” (p. 81)</i></p> <p>Not true.</p> <p>The applicants themselves determine which constituency, if any, they wish to belong to, and may join up to three under NCSG’s Charter. When applying for membership, applicants choose concurrently to apply to the NPOC, the NCUC, both, or to decline to join any constituency. The basic membership that carries a vote on GNSO matters is in the NCSG. It is the applicant’s choice, and the NCSG EC ‘process’ plays no role in constituency assignment. We have no idea on what basis it could be claimed that an organization “should be” in one constituency rather than the other, especially given that they can choose to be in both.</p>	Draft modified to address this.
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54 NCUC	<p><i>“Essentially the NCUC, dominated by small or single person groups, is always able to have the numbers to out-vote NPOC, which represents often larger but fewer NPOs. All four NCSG members recently elected to the GNSO Council have come from the NCUC because it has a far greater number of members than the NPOC, and voting is ‘first past the post’, rather than a form of proportional representation.” (p. 103)</i></p> <p>Not true.</p> <p>In stakeholder group elections the NCSG uses a weighted simple plurality voting system, not a pure ‘first past the post’ method, as alleged. Large organizations, defined as those with more than 600 members, receive 4 votes, small organizations receive 2 votes and individuals receive 1 vote. The weighted voting structure favors large organizations.</p> <p>Excluding organizations that are members of both constituencies (5 in total), the NCUC actually has more large organizations as members (21) than does the NPOC (20). The allegation we have heard that the NPOC represents only large organizations and the NCUC small organizations and individuals is not true.</p> <p>The Westlake Team’s analysis of the 2014 NCSG election to the GNSO Council assumes a causation that, again, simply is not true. For a constituency to have a member win a stakeholder group election it must run candidates. Only one NPOC member ran for the four available GNSO. Council positions in 2014.</p> <p>Although smaller in number, the NPOC is large enough to win stakeholder group elections within the NCSG on its own were its members to run and vote for their candidates. Under the weighted voting system the NPOC members, including those who are also members of the NCUC, currently have a voting potential of 152 votes. In the election cited the lowest number of votes received by a winning Council candidate was 106 votes. The NPOC is certainly capable of winning NCSG elections under the weighted simple plurality voting system should their members both run for office and be motivated to vote for their candidate.</p> <p>Moreover, the electoral division within the NCSG is not as stark as the Westlake Team’s statement may indicate. There is widespread inter-constituency electoral interaction and support. Of the 114 ballots counted in the 2014 NCSG Council election, only one ballot voted exclusively for the member candidate from the NPOC All other ballots indicating support for the NPOC member also contained votes for NCUC member candidates. All four</p>	Draft modified to address this.
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55	NCUC	<p><i>“The NPOC’s difficulties in starting up and growing its membership has fed the perception that the NCUC sees it as competition for funding and travel support from ICANN.” (p. 81)</i></p> <p>Not true.</p> <p>There are three travel slots per constituency, full stop. NPOC is guaranteed these slots whatever NCUC does or thinks. And there are three slots for NCSG—one goes to the chair, one goes to a NCUC rep to the NCSG EC, the other goes to a NPOC rep to the NCSG EC. Support for other events from ICANN is based on ICANN decisions, and NCUC is not even aware of what NPOC applies for.</p>	Draft modified to address this.
56	NCUC	<p><i>“There was a view from some that the NCUC even questions the right of the NPOC to exist.” (p. 81)</i></p> <p>Not true, and another approximation by the Westlake Team. How many does ‘some’ represent? Is there any timely, verifiable factual basis for this assertion by ‘some’?</p> <p>All NCUC lists and discussion forums are open, archived and available for public inspection. Is there any evidence on list for this asserted ‘view from some’?</p>	The perception exists. It was the view of more than one respondent.
57	NCUC	<p><i>“NCUC is a self perpetuating elite that uses the NCUC constituency as a basis for the realization of self interests. A small group does everything in their power to capture power and resources.” (p. 81)</i></p> <p>The inclusion of this anonymous ad hominem attack in a purported professional review is an absolute disgrace. Once, again, the issue of context arises. What is the background of the individual providing this quotation? In the absence of this information, it must be assumed the person making this unsubstantiated accusation has a personal or professional interest in disparaging certain unnamed NCUC volunteers. One wonders about the decision to include it in the report.</p>	Draft modified to address this.



58 NCUC	<p><i>“There is a perception among some that the membership and Executive Committee of the NCUC has an element of self-perpetuation and that some of the NGOs represented in the NCUC are very small and may exist only for the purpose of ICANN participation.” (p. 81)</i></p> <p>Not true.</p> <p>Again, the problem of approximation and context. This is a closed study. Actual numbers are available. How many is ‘some’? How widespread is this ‘perception’? In what context and by whom is this perception held?</p> <p>With regard to our membership, the NCSG EC, consisting of representatives of both the NPOC and the NCUC, vets all applications for admission in the NCSG before a constituency (or none) is selected by the new member. The membership admissions process is designed specifically to prevent the admission of pseudo-organizations by any one constituency.</p> <p>As to the size of NCUC member organizations, they of course vary. The Centre for Democracy and Technology, Global Voices, Article 19, the Internet Governance Project, the Internet Society (Belgium Chapter) and the Franklin Pierce Center for Intellectual Property are examples of small organizational members. The Association for Progressive Communications, Electronic Frontier Finland, the Center for Technology and Society, Freedom House, and Internews International are examples of large organization members.</p> <p>It should also be noted that as NCUC admits individual members, there is no need for an individual to create an organization to join the NCUC. We welcome all organizations and individuals who meet our membership criteria as defined in the NCSG charter. We are unaware of any member organization that “may exist only for the purpose of ICANN participation.” Since the authors deemed this assertion worthy of inclusion, perhaps they could identify these organizations for us.</p> <p>With regard to the NCUC EC, there is regular turn-over rather than “self-perpetuation.” This can be easily verified anyone who bothers to look at <a href="http://www.ncuc.org/governance/previous-executive-committees/">http://www.ncuc.org/governance/previous-executive-committees/</a>. All members of the NCUC EC are limited to three consecutive one-year terms. EC members are elected by region to guarantee geographical diversity. In the twelve years since the NCUC was created under its current name, there have been seven different Chairs and twenty-seven EC members. There is no element of self-perpetuation in the NCUC EC, rather there is diversity. Can the same be said of all SG/Cs for whom no such allegation is made in the report?</p>	Draft modified to address this.
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59	Chuck Gomes	#1 This is a very important section. Because of the fact that the report will be very lengthy (even without the appendices and attachments), we can count on the fact that not very many people will find the time to read it all. At the same time, if we want to maximize public comments, we need to provide the recommendations in brief format very early in the report and encourage people to focus on those and comment on them. With each brief statement of the recommendations we should include a reference to where more detail can be found in the report.	Draft modified to address this.
60	Chuck Gomes	Pg 8 #2 Is this true for all groups? It certainly is not true for non-English speakers and I suspect other groups as well.	Draft modified to address this.
61	Chuck Gomes	Pg 14 #3 This does not seem to be true for recommendation 3.	We disagree. Evidence incorporated. Draft modified to address this.
62	Chuck Gomes	Pg 14 #4 See previous comment.	We disagree. Evidence incorporated. Draft modified to address this.
63	Chuck Gomes	Pg 19 #5 Is this a fair conclusion? It doesn't necessarily seem to follow that because most people do not participate in more than one WG implies that there is a limited talent pool. A more reasonable conclusion would seem to be that there are a limited number of people who are willing to participate in more than one WG. This doesn't negate the conclusion but I don't think the data used validates the conclusion.	Draft modified to address this.
64	Chuck Gomes	Pg 22 #6 I do not believe that much if any of these funds have been used to support WGs. If I am correct, this may not be a very relevant example.	Draft modified to address this.
65	Chuck Gomes	Pg 22 #7 It would be helpful to know how many Fellows eventually participated in GNSO WGs.	Draft modified to address this.
66	Chuck Gomes	Pg 31 #8 If Westlake has time, it would be useful if they reviewed the P&I WG initial recommendations to assess how well it accommodates these recommendations.	Not completed

67	Chuck Gomes	Pg 32 #9 New edits and comments from Chuck Gomes as of 13 March are highlighted below.	
68	Chuck Gomes	Pg 32 #10 It would be really helpful if an introductory paragraph to Section 6 was added prior to Section 6.1 so that readers have some context prior to reading 6.1 and other sections.	Not changed. If still considered valuable after new Draft has been reviewed, this may be added to Final Draft
69	Chuck Gomes	Pg 33 #11 Note this has just recently changed; a note to that effect should be added.	Draft modified to address this.
70	Chuck Gomes	Pg 35 #12 I think that a good recommendation would be to require all WGs to do a self-assessment at the end of their work and not only do it if the chartering organization requests it. You essentially do that later in the report and may want to reference that here.	Draft modified to address this.
71	Chuck Gomes	Pg 43 #13 As everyone probably knows, WGs aren't formed until after a PDP is initiated so this would not be possible.	Draft modified to address this.
72	Chuck Gomes	Pg 44 #14 Did this really start before PDP C finished?	Draft modified to address this.
73	Chuck Gomes	Pg 46 #15 In the P&I WG meetings we tried having two hour meetings every two weeks and discovered that we lost some continuity when there was two weeks in between meetings. At the same time it was difficult for many WG members to commit two hours every week. So we ended up doing weekly one hour meetings. That seemed to serve us well in this particular WG.	Draft modified to address this.
74	Chuck Gomes	Pg 46 #16 Another factor that would be good to explore regarding the effectiveness of public comment periods is the design of the public comment process. Taking a page from the CWG IANA internal survey, the P&I WG used a survey for soliciting public comments. Unfortunately the public comment period is still underway so it is not yet possible to measure the effectiveness. But it might be worthwhile to mention this approach and recommend it be carefully evaluated.	Draft modified to address this.
75	Chuck Gomes	Pg 51 #17 Use of this term is not a good idea because the GNSO does have a formal PDP but I don't think that is what you mean here.	Draft modified to address this.

76	Chuck Gomes	Pg 55 #18 What is meant by this? Does Westlake believe that the PDP in Annex A of the Bylaws doesn't define the roles sufficiently? If so, you need to be more specific in what you think is needed.	Draft modified to address this.
77	Chuck Gomes	Pg 56 #19 I assume more will be said about this.	Draft modified to address this.
78	Chuck Gomes	Pg 56 #20 I don't think that it is accurate to say that the GNSO did this. My understanding is that it was cross community effort that GNSO members participated in.	Draft modified to address this.
79	Chuck Gomes	Pg 57 #21 I assume more will be said about this.	Draft modified to address this.
80	Chuck Gomes	Pg 58 #22 This may be overkill. You might want to say every PDP that involves public interest concerns.	Draft modified to address this.
81	Chuck Gomes	Pg 58 #23 Instances where this happen should be cited. I am not sure it happened.	Draft modified to address this.
82	Chuck Gomes	Pg 59 #24 I agree but it should be validated that it actually occurred and those situations should be identified.	Draft modified to address this.
83	Chuck Gomes	Pg 59 #25 There is one critical and essential condition missing: the WG must reach consensus on the policy. The way this is worded, you are saying that the Council should approve the recommendations even if consensus is not reached; that would violate the terms of registry and registrar agreements. The next paragraph recognizes this.	Draft modified to address this.
84	Chuck Gomes	Pg 63 #26 This is a very naïve recommendation. It assumes that it is possible to develop simple prioritization processes. The fact is that GNSO Councilors often have conflicting priorities. That is why the prioritization procedures developed in 2010 were so complex. Also, ICANN's strategic priorities in many cases will not be very helpful in prioritizing GNSO work because they are at a high level while GNSO work is much more at a tactical level.	Draft modified to address this.
85	Chuck Gomes	Pg 72 #27 Without quantification and qualification, this fact is not very useful. How many parties? Were those parties from diverse groups or mostly from one group?	Draft modified to address this.

86	Chuck Gomes	Pg 72 #28 Are these concerns of existing GNSO participants or newcomer's; I think that should be clarified because the conclusions that can be made depend on knowing that.	Draft modified to address this.
87	Chuck Gomes	Pg 74 #29 I don't think many if any would disagree that the GNSO needs to be open and inclusive, but I encourage Westlake to recognize that adding new constituencies is not the only way to be open and inclusive. A good recommendation for further study might be to determine whether there are barriers to openness and inclusiveness and then find out what those barriers are. If there is strong openness and inclusivity in existing structures, then it may not be necessary to form a new constituency; in such cases, forming a new constituency may add a lot of complexity without adding value regarding openness & inclusivity. If adding a constituency is not solving a problem of openness and inclusivity then we shouldn't justify making it easier to add constituencies based on improving openness & inclusivity.	Draft modified extensively to address this.
88	Chuck Gomes	Pg 75 #30 Westlake appears to be falling into the trap of assuming that forming a new constituency solves a problem. It is critical to understand what problem is being solved.	Not the problem we were discussing. Draft modified to address this.
89	Chuck Gomes	Pg 76 #31 Why just Asian?	Draft modified to address this.
90	Chuck Gomes	Pg 76 #32 The use of the word 'may' in these two sentences seems much more appropriate than the uses of the words 'must' and 'will' two paragraphs above. I don't think we know for sure.	Draft modified to address this.
91	Chuck Gomes	Pg 79 #33 How is average calculated? Is it calculated on total raw numbers or is it an average of the percents for each group? I think the former would be more valid but that is not technically an average. Regardless, a footnote explaining how average is calculated should be added.	Draft modified to address this.
92	Chuck Gomes	Pg 79 #34 This is only one reason. The fact of the matter is that to be a member of the RySG, a registry must have a contract with ICANN and there are extremely small numbers of registries in Africa and in Latin America and the Caribbean.	Draft modified to address this.

93	Chuck Gomes	Pg 79 #35 This isn't unique to just brand TLDs although they certainly have their own unique issues in most cases.	Noted
94	Chuck Gomes	Pg 80 #36 What does aggregation of voting mean? Note that the three constituencies do not always vote alike nor are they required to do so.	Draft modified to address this.
95	Chuck Gomes	Pg 80 #37 Where is this required? I think it is not.	Draft modified to address this.
96	Chuck Gomes	Pg 80 #38 There have been some CWGs that limited participation this way but it is not a universal characteristic of CWGs.	Draft modified to address this.
97	Chuck Gomes	Pg 82 #39 It is important to note that membership of many constituencies and SGs is made up of organizations, not individuals, or a combination of both. This must be taken into account when discussing geographic diversity. I know this makes it harder to analyze geographic diversity but it is a fact. Some organizations have international membership. Some companies have international locations and international employees. This probably deserves at least a footnote.	Draft modified to address this.
98	Chuck Gomes	Pg 84 #40 Geographic location of Councilors in some cases does not have as much significance as others. For example, the RySG always elects its three councilors from three different regions but those councilors do not have the freedom to vote independently. They are required to vote as directed by the RySG. At the same time, they are free to express personal views as long as they clarify that they are personal ; in those cases, geographical diversity would probably have more value.	Noted.
99	Chuck Gomes	Pg 86 #41 I don't think this is true. To use the RySG as an example, in cases where there is not RySG consensus our charter allows for Councilors to support different positions. Ideally, we try reach consensus but that is not always possible and we always allow for minority statements.	Draft modified to address this.
10	Chuck Gomes	Pg 86 #42 How many? What is the definition of 'many'? Broad terms like this reduce the validity of the report.	Noted
10	Chuck Gomes	Pg 88 #43 Is this really true of any WGs? I question that. Is it true for any SGs and constituencies? If so it seems to me that any such groups should be named. I know that RySG members are listed on our website, but keep in mind that that is a list of organizations not a list of individuals. It is essential that these kind of nuances are recognized.	Noted. Draft modified to address this.

10	Chuck Gomes	Pg 88 #44 WRONG! Please see <a href="http://media.wix.com/ugd/ec8e4c_0d0616a2d2e04e7dbfb72fb88b633380.pdf">http://media.wix.com/ugd/ec8e4c_0d0616a2d2e04e7dbfb72fb88b633380.pdf</a>	Draft modified to address this.
10	Chuck Gomes	Pg 89 #45 <a href="http://www.rysg.info/#!/join-us/c3kh">http://www.rysg.info/#!/join-us/c3kh</a> I am curious why you do not have this information. Did you not go to the RySG site?	Draft modified to address this.
10	Chuck Gomes	Pg 89 #46 This is a terribly flawed statement especially because it charges all SGs/Cs as being discriminatory. It is obvious that you have not looked at the RySG fee structure. You should not make a statement like this without first doing due diligence. And to suggest that different levels of support may lead to differential levels of support without backing that up with facts is irresponsible.	Draft modified to address this.
10	Chuck Gomes	Pg 90 #47 This is a noble statement but it begs this question: who should pay for those who cannot pay. I think you need to go further than just making a noble statement.	Draft modified to address this.
10	Chuck Gomes	Pg 90 #48 The number of members in a WG is almost always very misleading. It's harder to measure, but the key is the number of active members and that is invariably much smaller especially for volunteer organizations.	Noted
10	Chuck Gomes	Pg 91 #49 We had better make sure we have qualified replacements before we disincentivize those who are willing to put in the time.	Draft modified to address this.
10	Chuck Gomes	Pg 92 #50 The 'key clauses' should be identified. Or should I say 'must'? ☺	Draft modified to address this. Proposed wording in Appendix 6
10	Chuck Gomes	Pg 92 #51 How are sanctions imposed on volunteers? What effect will that have on volunteers?	Noted - GNSO Council decision
11	Chuck Gomes	Pg 95 #52 Were any questions asked of the community on this?	Draft modified to address this.
11	Chuck Gomes	Pg 96 #53 In hindsight, it would have been much more effective to separate this by SO and AC. As the comments below illustrate, the responses are heavily skewed in a negative way for the GAC.	Noted, good point

11	Chuck Gomes	Pg 100 #54 This recommendation might be more realistic if it only related to PDPs for which there is perceived to be significant public interest. It probably will be hard even with that limitation but it would be a little more realistic.	Draft modified to address this.
11	Chuck Gomes	Pg 104 #55 I don't think that such comments should be included without analysis and comment. Most of what happens and what the GNSO is supposed to do is what goes on in WGs where voting in the formal sense rarely occurs do it is not at all obvious why there is the perception of an obsession with voting. Is it possible that they mean the GNSO Council instead of the GNSO as a whole? It seems like an unfair characterization even of the Council.	Main point is US-centric cultural practices. Draft modified to address this.
11	Chuck Gomes	Pg 104 #56 I think it should be noted that any one organization or individual is only allowed to vote in one GNSO SG or constituency as applicable.	Draft modified to address this.
11	Chuck Gomes	Pg 105 #57 It should be noted that this was exclusively a NCPH problem. Maybe it should be dealt with as a NCPH problem and not a GNSO problem. More importantly, a fundamental question that should be asked is whether the structure negatively impacted the policy development process that is the GNSO's primary mission.	Interview and survey responses are anonymous - but we did hear this from a number of respondents. Draft modified to address this.
11	Chuck Gomes	Pg 111 # 58 What was the intent of this column? At present it is blank so it should be eliminated if it not going to serve a purpose.	Draft modified to incorporate this.