GNSO Council Extraordinary Meeting with SubPro Small Team

04 May 2023

ICANN

Agenda

Item 1: Administrative Matters (10 minutes)

1.1 - Roll Call

1.2 - Updates to Statements of Interest

1.3 - Review / Amend Agenda

1.4 - Note the status of minutes

Item 2: COUNCIL DISCUSSION - Presentation of SubPro Small Team Triage Outputs

2.1 – Overview of SubPro Small Team Outputs - (Paul McGrady, Small Team Chair)

2.2 – Council discussion

2.3 – Next Steps

Item 1: Administrative Matters

Item 2: COUNCIL DISCUSSION - Presentation of SubPro Small Team Triage Outputs

Council Deliverables – *Very Short Timeframe*

Deliverables:

- Council alignment on small team's proposed paths forward
- Council preparation for meeting with ICANN Board on 22 May
- Small team consideration of Board feedback and adjustments to proposed paths forward as needed; briefing to Council on proposed updates to earlier triage (if applicable)
- Staff/leadership build out of draft work plan based on proposed paths forward (i.e., ultimate deliverable for this stream of work, needed by 15 Jun)
- *Council finalization of deliverables for the Board – DAY ZERO (i.e., Sunday) ICANN77*

SubPro Small Team Outputs – Sample

#	Output Overview	Issue Synopsis	Notes	Tentative Proposed GNSO Council Action (option a-g see above)
	Topic 3: Applications Assessed in Rounds			
1.	**Affirmation with Modification 3.1**: The Working Group affirms recommendation 13 from the 2007 policy, which states: "Applications must initially be assessed in rounds until the scale of demand is clear." However, the Working Group believes that the recommendation should be revised to simply read, "Applications must be assessed in rounds."	As noted in the ODA, "ICANN org considered that assessing applications in rounds and establishing criteria for starting subsequent rounds requires deliberation of what it means to close a round and possibly, the implications of simultaneous rounds for both applicants and ICANN org."[1] The Board is considering to direct ICANN org to establish the exact criteria for considering a round "closed" during the implementation process, doing so in consultation with the Implementation Review Team (IRT). 28 March Context: The issue here is forward-looking, as in what will the program look like after the next round (recognizing that the next incarnation of the program must be a round). The future steady state is not necessarily first come first served.	**Deliberations:** - Broad agreement that at a minimum, the immediate next launch of the program must be in the form of a round. - Recognition that this set of recommendations is indeed prescriptive, but policy can always be modified in the future. - Because the implications of moving to some form of steady state other than continuous rounds (especially one which includes a first come first serve component) are substantial, careful thought and analysis are needed (e.g., in the form of future policy development) if indeed this is the direction the community desires to go.. - Because nothing precludes policy development in the future to modify the requirement of rounds, the	**Proposed Path Forward:** **a) Provision of clarifying information to the Board including:** • The rationale the Working Group used to make this recommendation, utilizing the preliminary report (for Work Tracks 1-4), comments received to that report, as well as the Draft Final Report and comments received). • Summary of the deliberations where the WG decided against a first-come first-served model, as well as acknowledgment that nothing precludes the GNSO from considering a different model to introduce new gTLDs in the future, via policy development.

SubPro Small Team Outputs – Explanation of Columns

- **Output Overview:** Recommendation language

- **Issue Synopsis:** Overview of Board's concerns, with additional context from discussion with Avri and Becky

- **Notes:** Summary of Small Team's deliberations and assessment of the Board's concerns

- **Tentative Proposed GNSO Council Action (option a-g):** Small Team's input to Council on the proposed path forward based on the categories (see next slide).

SubPro Small Team Outputs – Action Categories

Outputs that the Board Marks as "pending"

For each of the recommendations, the small team is expected to recommend which proposed action by Council would be preferred. The available actions (as outlined in the small team assignment form) are:

a) Provision of clarifying information to the Board.

b) Determination that the issue can be resolved during implementation.

c) The Council may modify or amend any approved recommendations (i.e., per Section 16 of the PDP Manual) prior to final action by the ICANN Board. Following this path is perhaps the "proactive" path forward and may be best applicable to relatively minor changes. While the Council is responsible for modifying or amending the recommendation language, this option still requires the reconvening of some form of the PDP Team and subsequent consultation with that PDP Team, a public comment period, and Council approval by a Supermajority threshold.

d) Allowing Board non-approval of a recommendation may be pragmatic in certain instances. Per Section 9 of Annex A in the ICANN Bylaws, in the event "the Board determines that such policy is not in the best interests of the ICANN community or ICANN," the Council would have the opportunity to submit a "Supplemental Recommendation".
   ● That "Supplemental Recommendation" could affirm or modify the relevant recommendation.
   ● However, the Council could elect to allow the non-approval of the recommendation to stand and not submit a "Supplemental Recommendation". This approach could make sense in limited circumstances where for instance, the Board intends to instruct ICANN org to follow the spirit of the recommendation but is unable to accept the recommendation as precisely drafted. In other words, this could be a pragmatic path forward where it may be unnecessary to formally approve the recommendation because the intended outcome is nevertheless achieved.

e) Recommending starting a Bylaw process,

f) Starting a policy process (GGP, GIP, PDP)

g) Other?

SubPro Small Team Outputs -- Triage Exercise

a) Provision of clarifying information to the Board

Topic	Recommendation
Topic 3: Applications Assessed in Rounds	3.1, 3.2, 3.5, 3.6, 3.7
Topic 9: Registry Voluntary Commitments / Public Interest Commitments	9.2
Topic 18: Terms & Conditions	18.3
Topic 19: Application Queuing	19.3
Topic 22: Registrant Protections	22.7
Topic 26: Security and Stability	26.9
Topic 29: Name Collision	29.1
Topic 32: Limited Challenge/Appeal Mechanism	32.1, 32.2, 32.10
Topic 34: Community Applications	34.12
Topic 35: Auctions	35.3, 35.5

b) Determination that the issue can be resolved during implementation

Topic	Recommendation
Topic 6: Registry Service Provider Pre-Evaluation	6.8
Topic 16: Application Submission Period	16.1
Topic 17: Applicant Support	17.2
Topic 18: Terms & Conditions	18.4

SubPro Small Team Outputs -- Triage Exercise, Cont.

e) Explore starting a Bylaw process	
Topic	**Recommendation**
Topic 9: Registry Voluntary Commitments / Public Interest Commitments	**9.1, 9.4, 9.8, 9.9, 9.10, 9.12, 9.13, 9.15**
Topic 24: String Similarity Evaluations	**24.3, 24.5**
Topic 30: GAC Consensus Advice and GAC Early Warning	**30.7**
Topic 31: Objections	**31.16, 31.17**

g) Other - Dialogue between the Council and Board	
Topic	**Recommendation**
Topic 18: Terms & Conditions	**18.1**
Topic 30: GAC Consensus Advice and GAC Early Warning	**30.4, 30.5, 30.6**

2.2 Council Discussion & 2.3 Next Steps

What is Expected to Happen Next?

Council to <u>align on small team proposed paths forward</u> and communicate to Board ASAP. Call with Board scheduled for 22 May; then try and gain <u>alignment on proposed paths forward between Board/Council</u>.

a) Category - Provision of clarifying information to the Board

- <u>On basis of small team discussion, staff support team to develop first draft of clarifying information, followed by small team review</u>;
- Aim to share clarifying info in advance of meeting with Board;
- Based on Board's feedback, determine whether further Council action is necessary.

b) Category - Determination that the issue can be resolved during implementation

- None at this stage, small team Assessment captures rationale.
- Based on Board's feedback, determine whether further Council action is necessary

What is Expected to Happen Next? (continued)

e) Explore starting a Bylaw process

- Discuss with Board during mid-May meeting;
- Based on Board's feedback, determine whether further Council action is necessary.

g) Other – dialogue between the Council and Board

- On basis of small team discussion, staff support team to develop first draft of speaking points, followed by small team review;
- Discuss with Board during mid-May Meeting;
- Based on Board's feedback, determine whether further Council action is necessary

Rough Timeline

What	When
Staff support team & small team to work on clarifying info, speaking points and rationale	4 – 10 May
Council meeting with ICANN Board	Monday, 22 May at 1300-1500 UTC
- Small team to consider Board feedback and determine if/how proposed triage actions need to be updated. - Staff/leadership to develop proposed timeline for addressing pending recommendations	By 2 June
1) Small team to brief Council on proposed updates to earlier triage (if applicable) 2) Council to confirm remaining actions / next steps and proposed timeline	Schedule special meeting on 5 or 6 June
Council to finalize deliverables for the Board	ICANN77 (day zero)

Post ICANN77 – Small Team Next Steps

- Need to update assignment if Council expects Small Team to continue its work on carrying out the proposed paths forward;
- Confirm whether composition remains as is or whether there is a desire to move to a representative type or other model.