

## Minutes of the GNSO Council Meeting 13 March 2019

### [Agenda and Documents](#)

Local time in Kobe: 13:00 JT Coordinated Universal Time: 04:00 UTC: <http://tinyurl.com/y3nkmj82>

(Thursday) 21:00 Los Angeles; 00:00 Washington; 04:00 London; 09:00 Islamabad; 13:00 Tokyo; 15:00 Melbourne

#### **List of attendees:**

Nominating Committee Appointee (NCA): – **Non-Voting** – Erika Mann

#### **Contracted Parties House**

Registrars Stakeholder Group: Pam Little, Michele Neylon, Darcy Southwell

Registries Stakeholder Group: Maxim Alzoba, Keith Drazek, Rubens Kühl

Nominating Committee Appointee (NCA): Carlos Raul Gutierrez

#### **Non-Contracted Parties House**

Commercial Stakeholder Group (CSG): Marie Pattullo, Scott McCormick, Philippe Fouquart, Osvaldo

Novoa (apologies, proxy to Philippe Fouquart) , Paul McGrady, Flip Petillion

Non-Commercial Stakeholder Group (NCSG): Martin Silva Valent (apologies, temporary alternate, Amr

Elsadr), Amr Elsadr, Elsa Saade, Tatiana Tropina, Rafik Dammak, Ayden Férdeline, Arsène Tungali

Nominating Committee Appointee (NCA): Syed Ismail Shah (apologies, proxy to Rafik Dammak)

#### **GNSO Council Liaisons/Observers:**

Cheryl Langdon-Orr– ALAC Liaison

Julf (Johan) Helsingius– GNSO liaison to the GAC

Adebiyi Oladipo – ccNSO observer

#### **ICANN Staff**

David Olive –Senior Vice President, Policy Development Support and Managing Manager

Marika Konings – Vice President, Policy Development Support – GNSO

Mary Wong – Vice President, Strategic Community Operations, Planning and Engagement

Julie Hedlund – Policy Director

Steve Chan – Policy Director

Berry Cobb – Policy Consultant

Emily Barabas – Policy Manager (apology)

Ariel Liang – Policy Support Specialist

Caitlin Tubergen – Policy Senior Manager

Sara Caplis – Technical Support

Nathalie Peregrine – Manager, Operations Support

Terri Agnew - Operations Support - GNSO Lead Administrator

#### [MP3 Recording](#)

#### [Transcript](#)

#### **Item 1. Administrative Matters**

1.1 - Roll Call

1.2 - Updates to Statements of Interest

There was no update to Statements of Interest.

### 1.3 - Review / Amend Agenda

Agenda was approved without objection.

### 1.4 - Note the status of minutes for the previous Council meetings per the GNSO Operating Procedures:

[Minutes](#) of the GNSO Council meeting on the 21st February were posted on 7 March 2019

[Minutes](#) of the GNSO Council meeting on the 4th March will be posted on the 18 March 2019

## **Item 2: Opening Remarks / Review of Projects & Action List**

**Keith Drazek** reviewed the [Projects list](#) and brought the following points to councilors' attention:

- Several Policy Development Process (PDP) items were part of the main agenda and would be discussed further into the call.
- The GNSO Council had received updates from the co-chairs of the Cross Community Working Group (CCWG) on Auction Proceeds, the New gTLD Subsequent Procedures PDP, the PDP Review of All Rights Protection Mechanisms in all gTLDs during the [GNSO Working Session](#) on Sunday 10 March 2019.
- There is an ongoing discussion around the PDP for curative rights protections for IGOs and INGOs, with an exchange on the topic held during the [joint GNSO & Governmental Advisory Committee \(GAC\) meeting](#) on Sunday 10 March 2019. Keith Drazek confirmed that he expected a resolution of the issue during the 18 April 2019 GNSO Council meeting following updated recommendations to be circulated to the GNSO Council mailing list shortly.

**Keith Drazek** then reminded the GNSO Council of the status of following [Action Items](#):

- An outstanding action item for Heather Forrest and Susan Kawaguchi to provide a report on the 3.7 appeal process in relation to the IGO INGO Curative Rights PDP Working Group. **Keith Drazek** updated Council on the joint GNSO GAC meeting outcomes. The GAC indicated interest in, should the GNSO Council not vote on recommendation 5 or all recommendations of the Final Report, taking part in re-engaging in the effort.
- Keith Drazek to send communication to the CCEG IG regarding the GNSO not taking part as a Chartering Organization.
- Further steps regarding the seating of the IANA functions review team will be taken once ICANN Board and the Non Commercial Stakeholder Group (NCSG) communicate input on the matter.
- The Technical Study Group has finished its work, GNSO Council would need further information regarding its next steps.

### Action Items:

- *Council leadership* to look into the status of existing action item related to 3.7 appeal after action report.
- *Council Chair* to follow up on the existing action item regarding the drafting of a response to CCWG/EG on Internet Governance.
- *ICANN Staff* to mark EPDP/TSG as complete
- *Council leadership* to confirm expectations of TSG are well understood, next steps. Reach out to find out next steps of TSG.

### **Item 3: Consent Agenda**

There were two items for Council consideration on the Consent Agenda:

- Reappointment of Becky Burr to seat 13 on the ICANN Board. The CPH has re-appointed Becky Burr for Seat 13 on the ICANN Board of Directors. This agenda item is intended to acknowledge the selection and confirm that the notification process as outlined in Section 7.25 of the ICANN Bylaws will be completed subsequently.
- Adoption of the CSC Effectiveness Review Team [Final Report](#).

#### **Approval of the final report of the Customer Standing Committee (CSC) Effectiveness Review**

WHEREAS,

1. The Customer Standing Committee (CSC) was established as one of the post IANA Transition entities and conducted its first meeting on 6 October 2016.
2. The ICANN Bylaws, Section 17.3 (b) states, "The effectiveness of the CSC shall be reviewed two years after the first meeting of the CSC; and then every three years thereafter. The method of review will be determined by the ccNSO and GNSO and the findings of the review will be published on the Website."
3. On 27 September 2018, the GNSO Council approved the process for the Customer Standing Committee (CSC) Effectiveness Review and appointed GNSO representatives (motion 20180927-1) <https://gns0.icann.org/en/council/resolutions#201809>.
4. On 16 January 19, the Initial Report for the CSC Effectiveness Review prepared by the CSC Effectiveness Review Team was published <https://www.icann.org/en/system/files/files/csc-effectiveness-initial-16jan19-en.pdf>.
5. The public comment on the Initial Report on CSC Effectiveness opened from 16 Jan 2019 to 25 Feb 2019 and comments were received. <https://mm.icann.org/pipermail/comments-csc-effectiveness-initial-16jan19/>
6. On 5 March 2019, the final report of the Customer Standing Committee Effectiveness Review was published at <https://community.icann.org/x/VQpIBg>, as a revision of the initial report in light of the comments received.

Resolved,

1. The GNSO Council adopts the final report of the Customer Standing Committee Effectiveness Review <https://community.icann.org/x/VQpIBg>.
2. If ccNSO Council also adopts the Report and supports finding and recommendations contained in it:
  - a. The review process is closed and CSC Effectiveness Review team is dissolved.
  - b. In accordance with the terms of CSC Effectiveness Review Template, the Chair of the GNSO Council and the Chair of the ccNSO Council are requested to recommend report to IANA Naming Function Review Team (IFRT) as soon as that is established.
  - c. The GNSO Council instructs the GNSO Secretariat to share the results of this motion with the CSC.
3. The GNSO Council expresses its sincere appreciation to the members of the CSC Effectiveness Review Team, the liaison, expert advisors and support staff who contributed to the review.

GNSO Council voted unanimously in favour of the Consent Agenda. **Keith Drazek**, on behalf of the GNSO Council, thanked the CSC Effectiveness Review Team and staff support for their efforts. He then thanked Becky Burr for her first term as Contracted Party House (CPH) appointed Board member, and noted that despite not working for a registry anymore, the CPH had no issue with her re-appointment for a second term.

#### Vote results

#### Action items:

- In accordance with the terms of CSC Effectiveness Review Template, the *Chair of the GNSO Council* and the Chair of the ccNSO Council are requested to recommend report to IANA Naming Function Review Team (IFRT) as soon as that is established.
- The GNSO Council instructs the *GNSO Secretariat* to share the results of this motion with the CSC.

#### **Item 4: COUNCIL DISCUSSION – Privacy/Proxy Services Accreditation Issues Implementation Review Team (PPSAI IRT)**

The PPSAI IRT is currently paused at ICANN Org's direction because of concerns about interrelation with General Data Protection Regulation (GDPR) and the ongoing work of the Expedited Policy Development Process (EPDP) replacing the Temporary Specification and potentially into phase 2.

**Darcy Southwell** added that the IRT had received a [communication](#) from Global Domains Division (GDD) recommending that they remain on hold. Several factors enter into consideration, such as limited resources and risk of duplication of EPDP Phase 1 Implementation.

**Keith Drazek** confirmed the receipt of a letter on the 4th of March from Cyrus Namazi, head of GDD recommending that the IRT continues to be on hold or delay the reinitiation of this effort until such time the EPDP concludes its work.

**Pam Little** informed councilors that this letter also seeks input from the Council regarding the transfer policy issue involving change of registrant process for proxy/privacy registrations. Registrars encountered some problems when implementing that new change of registrant process policy in the transfer policy but given that the transfer policy PDP working group didn't really consider the proxy and privacy issue, it was actually deferred to the IRT.

**Paul McGrady** provided a statement and background information to the PPSAI and reminded councilors that the Intellectual Property Constituency (IPC) was very keen that the IRT resume its work as it does not agree with the interdependency with EPDP conclusions.

**Göran Marby**, ICANN Org, intervened to thank the GNSO Council and the Contracted Party House in particular for the letter they sent during ICANN63 for triggering the idea of the Technical Study Group.

Returning to the topic of the PPSAI IRT, **Michele Neylon** stated that he would oppose the PPSAI IRT moving forward without taking into account recent GDPR related developments.

**Marie Pattullo**, on behalf of the Business Constituency (BC), supported the IPC's statement to continue the implementation work, given that privacy and proxy issues are still present.

**Rubens Kühl** asked in the Adobe Connect chat if there was a way to split the IRT's work into EPDP dependent and non-EPDP dependent parts and find a path forward.

In response to Michele, **Paul McGrady** confirmed that in his point of view that there had been GDPR awareness in the PPSAI IRT.

**Elliot Noss**, Tucows, RrSG, came to the microphone to remind councilors that many practical developments were taking place in regards to GDPR: registrars creating facility to allow registrants actively to make their WHOIS data available and work on data accessibility. Elliot Noss agreed that parts of the PPSAI IRT such as the accreditation process could resume as were not impacted by GDPR.

**Jennifer Gore**, Winterfeldt IP Group, IPC, mentioned that information relating to the PPSAI IRT and to this matter specifically was visible on the [IRT's wiki page](#). She raised that work of the IRT had been put on hold in 2018 for a legal review to take place and that the IRT had always planned to discuss the change of registrant when the privacy/proxy agreement went to public comment.

**Pam Little** nuanced the previous intervention stating that Council had deferred the change of registrant transfer issue to the IRT for consideration after the Public Comment period, not during the IRT.

#### Action items:

- *Council* to prepare response to letter from Cyrus, considering whether the PPSAI IRT should remain on hold and whether the transfer policy referral needs to be continued and consider trying to parse out EPDP related items versus non-EPDP related.

#### **Item 5: COUNCIL UPDATE – GNSO Policy Development Process 3.0 Implementation**

**Rafik Dammak** updated councilors on recent developments from the PDP3.0 Implementation plan. A small group of councilors is working on implementing PDP3.0 recommendations whilst providing Council with regular updates, with an aim to completion by the Annual General Meeting (AGM). **Maxim Alzoba** volunteered to take part representing the Registries Stakeholder Group (RySG).

**Keith Drazek** encouraged all to understand and acknowledge the importance of the PDP3.0 effort.

**Paul McGrady** commented on PDP3.0 in regards to how consensus was built, in light of the recent EPDP Final Report which was approved by the GNSO Council when the BC and the Intellectual Property Constituency (IPC) councilors voted against. He cited the significant financial weight of industry contributions represented by the BC and IPC members and called for better acknowledgment and representation in future PDPs. This was disputed by **Michele Neylon** as being against the multistakeholder model. Ayden Férdeline agreed that consensus building was in need of a discussion, he

also argued the NCSG participation and stakes in the multistakeholder model being as important as those of other groups.

**Keith Drazek** agreed that better understanding PDP and EPDP representation moving forward was key. However, questions of consensus and assessing consensus were defined in the GNSO Operating Procedures and were at the discretion of the Chair's assessment. Keith reminded councilors that PDP 3.0 focuses on improvement Council management of the PDPs and not on substantive changes to the PDP operating procedure.

**Paul McGrady** confirmed his support of the PDP3.0 effort.

**Pam Little** encouraged IPC councilors to join the PDP3.0 effort as the deadline is tight and it will be important to move the small group to completion by November 2019.

**Amr Elsadr** mentioned that the NCSG appreciated the positive impact that PDP3.0 had on non-commercial representation in PDP WGs. He also raised that any change to the GNSO Working Group guidelines regarding representation would need to be approved by the GNSO Council.

Action items:

- *Small group of Councilors* to ensure that recurring update are provided to the Council (e.g., on no less than a quarterly basis)

**Item 6: COUNCIL DISCUSSION – Discussion of the Inter-Registrar Transfer Policy (IRTP) Policy Status Report (PSR)**

**Brian Aitchison**, ICANN Org, presented to the GNSO Council latest updates on the IRTP Policy Status Report. ([slide deck](#) and presentation comments: pg 61 - 67 of the [transcript](#)). The Consensus Policy Implementation Framework (CPIF) requires that after a certain period of Policy Implementation, a Policy Status Report (PSR) be produced. The PSR was built according to the three overarching goals of the IRTP: domain name portability, transfer-related abuse prevention, and transfer-related information provision. After outlining the most recent developments, **Brian Aitchison** then asked Council for their input and feedback regarding next steps.

**Michele Neylon** provided comments on transfers, the Transfer Emergency Action Contact (TEAC), and the CPH Tech Ops group working on transfers and post-GDPR situations. He encouraged Brian and his team to take the latter into consideration.

**Darcy Southwell** raised that there were many technical factors and policy issues affecting transfers and that a holistic approach would be preferred.

Action items:

- *Council* to seek to determine options and next steps for the Transfer Policy review and provide GDD information/response and/or seek additional information as it considers the Transfer Policy holistically.

### **Item 7: COUNCIL DISCUSSION – Next steps related to the ICANN Procedure of Handling WHOIS conflicts with Privacy Law**

**Keith Drazek** reminded councilors that the GNSO Council decided to put the call for a drafting team for the implementation advisory group on hold until EPDP phase 1 work was finalised at which point the Council would revisit the topic.

**Pam Little**, on behalf of the RrSG, proposed to defer the call for volunteers by 12 months to allow for the implementation of phase 1 and phase 2 efforts to progress. **Michele Neylon** and **Tatiana Tropina** were also in support of the 12-month deferral after reassurance from **Keith Drazek** that should there be a need to revisit the issue prior to the 12 months ending, Council would take the necessary steps.

#### Action Items:

- Extend out call for volunteers for another 12 months.

### **Item 8: COUNCIL DISCUSSION - Expedited PDP on the Temporary Specification for gTLD Registration Data - Phase 2 Work**

**Rafik Dammak** updated the councilors on discussions around EPDP phase 2 taking place during ICANN64. The EPDP team met with the Technical Study Group (TSG) and discussed implementation and the creation of a small informal team in a separate session with the GDD team. The aim for the following session of the EPDP team was to better define the work plan proposal.

**Michele Neylon** raised the question of the membership requirements of the IRT, the timing of both the IRT and EPDP Phase 2, and expressed concern about available volunteer time and the lack of a Chair.

**Keith Drazek** acknowledged Michele Neylon's concerns whilst outlining that important scoping work, as well as administrative and logistical could still start immediately.

**Rafik Dammak** encouraged the stakeholder groups (SGs) and constituencies (Cs) to put forward EPDP phase 2 Chair candidate names.

Action Items: none

### **Item 9: ANY OTHER BUSINESS**

#### 9.1 - New GNSO Chair election timeline with travel guidelines (120 days for funded traveller submissions)

**Julie Hedlund**, ICANN org, reminded councilors of the new travel guidelines of 120 days, impacting for the Annual General Meeting, the usual officer election timelines, given that funded traveller names need to be submitted a lot earlier than when the election results would be available. The GNSO Operating Procedures will need to be updated to reflect these changes.

**Elsa Saade** noted that this would heavily impact SG and C election timelines but also charter content.

Action item:

- *Councilors* to continue discussion with their respective groups to help understand the impact and react accordingly.

#### 9.2 - Open microphone

**Thomas Rickert** proposed a co-chair structure for the EPDP Phase 2 leadership position. **Keith Drazek** noted that the leadership structure of Chair and Vice Chair was already outlined in the EPDP Charter. **Nathalie Coupet** raised the point that EPDP work was not doing justice to Whois.

**Keith Drazek** adjourned the GNSO Council meeting on Wednesday 13 March 2019 at 15:05 local time.