

In order to facilitate the discussion, this document aims to bring together the PDP Work Plan notes, questions from the staff paper and issues and ideas raised in previous debates. Please review this document to see if there is anything missing, especially in the concerns / questions section. Feel free to share your ideas and suggestions on the mailing list. The hope is that if the group can reach consensus on how these concerns / questions should be addressed, it will be easier to work towards a proposed solution.

Issue to be addressed	Current Practice / Rules	Concerns / Questions	Notes from WT calls / How to address concerns - questions	Proposed Solution	By-law change recommended (Y/N)
<p>1. How to maximize effectiveness of working groups</p>		<p>1a. What should be the role of face to face meetings with working groups, if any 1b. Should there be a mechanism to report a process failure? If yes, how should such a mechanism look?</p>	<p>1a. The role of face to face meetings in conjunction with ICANN meetings can be an important recruitment tool and opportunity to solicit input from the broader community on a certain issue. WGs should be encouraged to consider organising a face-to-face meeting at ICANN meetings, taking into account that it can be used in a variety of ways, in addition to a normal WG meeting. However, it should not be mandatory for WGs to meet face-to-face. Face-to-face meetings outside of ICANN meetings could be desirable in certain circumstances such as a short deadline, but there is an obvious</p>		

			<p>cost implication that would need to be taken into account. It was suggested that a way to reduce costs, could be to link a face-to-face meeting to another event or conference to which community members are already travelling anyway.</p> <p>1b. Such a process should address issues perceived by the GNSO Council, as the WG-WT is tasked to develop a procedure that will address process failure within a Working Group. Issues such as what if the Chair resigns, should be raised with the WG-WT for possible inclusion in the procedure the WG-WT is developing.</p>	
<p>2. Communication with Different ICANN Departments (e.g. Legal, Compliance, Services)</p>		<p>2a. Should there be periodic communications with the Office of the General Counsel if direction of policy recommendations raises issues related to scope?</p>	<p>2a. It was suggested that there should be some procedures in place, especially with regard to how communication is initiated and who is the gatekeeper. It was suggested that Staff might serve as the intermediate, which is already current practice. Some noted that questions might not only occur in relation to scope but also other issues such as contract interpretation or feasibility of certain recommendations. It was pointed out that the involvement of other ICANN departments such as</p>	

			compliance and services might be required at a certain point in time and should be taken into consideration too. As a result it was agreed to change the title of this issue to reflect this.		
3. Linking policy development with ICANN's strategic planning and budgeting		3a. How to link policy development with ICANN's strategic planning and budgeting? 3b. If costs such as experts or research are expected to be significant, should the policy work be deferred until the resources have been budgeted?	3a. It was pointed out that policy development is often problem driven which would not appear in the strategic plan. Alignment with the strategic plan is good for 'big' projects, but not necessarily for 'ordinary' policy issues. Staff agreed to review the BCG report to see whether there were any specific recommendations in relation to this issue. 3b. It was pointed out that there is no insight on how the Council or WGs are operating against the budget allocated for its operation and activities, and how decisions are taken on what gets funded and what doesn't. Staff was requested to obtain further information on this process internally.		
4. Timing <i>Note: also one of the overarching PDP issues</i>	From the revised ICANN by-laws: If the Council decides not to convene a task force, the Council will request that, within ten (10) calendar days thereafter,	4a. What timelines should be build in to allow for sufficient time to solicit constituency and stakeholder input?	4a. Constituencies / stakeholder groups have a stake in the process, so should be invited to participate. Most agreed that the WG should solicit input from constituencies / stakeholder groups at the start of the		

	<p>each constituency or Stakeholder Group appoint a representative to solicit the constituency's or Stakeholder Group's views on the issue. Each such representative shall be asked to submit a Constituency/Stakeholder Group Statement to the Staff Manager within thirty-five (35) calendar days after initiation of the PDP.</p> <p>[...]. The Staff Manager will take all Constituency/Stakeholder Group Statements, Public Comment Statements, and other information and compile (and post on the Comment Site) an Initial Report within fifty (50) calendar days after initiation of the PDP.</p> <p>[...]</p> <p>The Staff Manager shall prepare the Final Report and submit it to the Council chair within ten (10) calendar days after the end of the public comment period.</p>		<p>process. It was suggested that this could be added to the WG-WT guidelines as one of the first items for a WG to consider on their agenda.</p> <p>It was suggested that opinions could also be obtained from other AC/SOs, if applicable.</p>		
5. Public Comment	From the revised ICANN	5a. Should there be requirements	5a. There should be a balance in		

<p>Periods?</p>	<p>by-laws: a. The public comment period will last for twenty (20) calendar days after posting of the Task Force Report or Initial Report. Any individual or organization may submit comments during the public comment period, including any Constituency or Stakeholder Group that did not participate in the task force. All comments shall be accompanied by the name of the author of the comments, the author's relevant experience, and the author's interest in the issue. b. At the end of the twenty (20) day period, the Staff Manager will be responsible for reviewing the comments received and adding those deemed appropriate for inclusion in the Staff Manager's reasonable discretion to the Task Force Report or Initial Report (collectively, the 'Final Report'). The Staff Manager shall not</p>	<p>or guidelines for which elements a public comment period should contain? 5b. Should a public workshop to provide an update on the status of work be part of a PDP to solicit public input? 5c. How to obtain public comments from groups that do not participate in ICANN or other SOs / ACs? 5d. How to expand the information available related to a PDP? 5e. How can public comments be handled in a more transparent way? 5f. Which public comment periods should be mandated by the ICANN by-laws? 5g. Should any guidance be provided to WG on how to review and incorporate public comments received? 5h. How long should public comment periods be?</p>	<p>providing guidelines so that comments are relevant and useful but also leave the door open for 'new' issues or topics that might have been overlooked. Any guidelines should not restrict what comments can be submitted. Information on terms of reference, length of time, how will comments be used, could be included in such guidelines. It might be helpful to review past public comment periods to determine what was good and what was not. 5b. The group discussed whether a webinar or workshop could be part of a public comment period to solicit input. All agreed that this option should be available for a WG to consider, but it should not be mandatory. It was suggested that a webinar / workshop could also take place at the start of a public comment period as a way to inform the community what the PDP is about and what kind of input the WG is looking for. It was suggested that the use of a webinar / workshop should be referenced as a best practice with the request for a WG to provide a justification if it would decide not to make use of it.</p>		
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be obligated to include all the comments made during the comment period, including each comment made by any one individual or organization.

5c. The announcement should be posted on the ICANN website and circulated to liaison mailing list.

5d. It was suggested that a webinar at the start of a public comment period could be considered which would provide an overview of what input is requested and how this input will be considered as part of the process. Other suggestions made include the development of a flyer, encourage WG members to spread the word. It was noted that broad awareness of a PDP is the key issue. Specific activities that highlight a policy development process need to be thought through.

5e. The WT reviewed the AoC and the references made there to public input, especially article 7 related to fact-based policy making. It was pointed out that the summary and analysis provided by staff of the public comments received is open for review and modification by the WG if it was deemed that comments were not accurately reflected or ignored.

5g. The WT agreed to review the Affirmation of Commitments to see if further guidance is

		<p>provided on how public comments should be reviewed and incorporated. The WT agreed that some guidance might be helpful, but debated whether such guidance should be mandatory or optional. Most agreed that a WG should provide detailed an explanation as to why or why not comments were considered and incorporated.</p> <p>5g. It was suggested that public comment periods should typically run for 30 days, which may be extended if the comment period falls during ICANN meetings or if there is a request from the community to do so. As a general rule comment periods should not be opened or closed on dates that are during the week of a general ICANN meeting. The duration of 30 days should apply to all comments received, also those from other SO/ACs and constituencies / stakeholder groups. It was noted that the Governmental Advisory Committee might require more time due to its internal procedures. All agreed that the work of a WG should not stop to wait for the comments of the GAC, but that these should be considered when received.</p>	
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<p>6. Implementation, impact and feasibility</p>		<p>6a. Should implementation guidelines, impact and feasibility be part of the work of a WG? (An approach developed by the registry constituency to determine whether a policy is optimal could be considered)</p> <p>6b. Should there be a procedure for clarification, reconsideration or complaint once a policy moves into the implementation phase and questions or concerns arise?</p> <p>6c. How to obtain feedback from the ICANN services or compliance team on the feasibility of the proposals?</p> <p>6d. Should there be a possibility to test a new policy to assess whether it has the desired effects and allow for fine-tuning if needed?</p>	<p>6a. Expert participation might be required to assess if/how certain solutions are implementable. It was noted that an impact analysis should not be restricted to the impact on the contracted parties, but also include non-contracted parties, especially registrants since the AoC points out that ICANN must act in the public interest. It was suggested that a 360 degree review of recommendations should be undertaken prior to finalizing the policy recommendations. It was noted that policy development should not be driven by what ICANN staff considers easy to implement, but at the same time it should not be impossible to implement.</p> <p>6b. The question was raised whether the proposed implementation plan should be reviewed by the WG before it would go out for community public comment or should the public comment period be extended to allow for input by the original WG or GNSO Council on the proposed implementation plan. It was pointed out that it would be important to avoid a constant going back and forth on the implementation plan, unless</p>		
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			<p>new information has come up that might justify a change. Another suggestion made was that the WG and/or GNSO Council should approve or not object to the implementation plan before it would go to the Board for consideration.</p> <p>The question was raised what mechanism for redress or reconsideration, if any, should a WG or the Council have if it was deemed that implementation has crossed the line and moved into policy making or if it would want to reconsider the policy recommendations / development. It was suggested to extend the public comment period on the implementation plan beyond 21 days to allow for feedback and input from all interested parties.</p>		
7. ICANN staff resources		7a. Should ICANN staff resources needed or expected to carry out the policy recommendations be evaluated as part of the WG recommendations?			
8. Constituency Statements [NEW]	From revised ICANN by-laws as applicable to Task Forces (but not working groups): Every Constituency/Stakeholder Group Statement shall	8a. Are the requirements noted in the by-laws still relevant? 8b. How / when should Constituency/Stakeholder Group Statements be solicited? 8c. What, if anything, should be done if few or no constituency/SG	8b. It was suggested that constituency statements should be solicited at the start of the WG, possibly in parallel with the first public comment period for a period of at least 30 days.		

	<p>include at least the following:</p> <ul style="list-style-type: none">(i) If a Super Majority Vote was reached, a clear statement of the constituency's or Stakeholder Group's position on the issue;(ii) If a Super Majority Vote was not reached, a clear statement of all positions espoused by constituency or Stakeholder Group members;(iii) A clear statement of how the constituency or Stakeholder Group arrived at its position(s). Specifically, the statement should detail specific constituency or Stakeholder Group meetings, teleconferences, or other means of deliberating an issue, and a list of all members who participated or otherwise submitted their views;(iv) An analysis of how the issue would affect the constituency or Stakeholder Group, including any financial	<p>statements are received?</p> <p>8d. How should the by-laws reflect that certain stakeholder groups will not have constituencies?</p> <p>8e. How to avoid that constituency statements contribute to 'stake out' positions at the inception of a working group, and instead are statements that facilitate the ability of the WG to analyze and debate problems and potential solutions 'without feeling that they have to develop or assert a particular, or fixed, 'constituency' position, a concern noted by the board?</p>			
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	<p>impact on the constituency or Stakeholder Group; and (v) An analysis of the period of time that would likely be necessary to implement the policy.</p> <p>"Super Majority Vote" means a vote of more than sixty-six (66) percent of the members present at a meeting of the applicable body, with the exception of the GNSO Council.</p>				
<p>9. Translation [NEW] Note: also one of the overarching PDP issues</p>		<p>9a. Which documents or which part of documents should be translated, in which languages and with what impact on the overall timeline? 9b. Should public comment periods be held in different languages with the possibility to submit comments in other languages? If yes, how does this impact the overall timeline?</p>	<p>9b. It was suggested that the base line text should be published first, followed by the translations once ready. It was suggested that it could be helpful to review how other international organizations such as the UN and the EU deal with public comment periods. The group briefly discussed ICANN's translation principles (http://www.icann.org/en/transparency/acct-trans-frameworks-principles-23jun07.htm#trans), but it was pointed out that as these are only principles, the PDP WT should consider whether there should be any specific requirements for</p>		

			translation of documents that are part of a PDP (which documents may / must be translated, in which languages). Most agreed that there should be equal access, but there should not be any delay in making available the original version of the document, just because translations are not available yet. It was suggested that comment periods should not end at different dates so that comments in other languages can also be taken into consideration when submitting comments.		
10. WG Output [NEW]	<p>From the revised ICANN by-laws: The Staff Manager will take all Constituency / Stakeholder Group Statements, Public Comment Statements, and other information and compile (and post on the Comment Site) an Initial Report within fifty (50) calendar days after initiation of the PDP. [...] At the end of the twenty (20) day period, the Staff Manager will be responsible for reviewing the comments received</p>	<p>10a. Are these outputs still relevant (Initial Report, Final Report)? 10b. Currently, Initial Report is often used to invite comments on possible recommendations or conclusions, which are then reviewed and further finalized by the Working Group. Should this be reflected in the by-laws? 10c. Should a bibliography be added of sources used in the report or compendium (should also be considered for issues report)? 10d. Should requirements or metrics for assessing the effectiveness of a policy after it has been implemented be included as part of the report?</p>	<p>10a. ICANN Staff shared that current practice is that the Initial Report provides some initial ideas or recommendations for consideration for the broader ICANN Community to comment on. Following receipt of the public comments, the WG normally continues its deliberations following which the report is finalized. It was pointed out that according to the current by-laws, the difference between the initial report and the final report is the inclusion by the Staff Manager of the public comments. No additional work by the WG is foreseen according to the by-laws.</p>		

and adding those deemed appropriate for inclusion in the Staff Manager's reasonable discretion to the Task Force Report or Initial Report (collectively, the 'Final Report'). The Staff Manager shall not be obligated to include all the comments made during the comment period, including each comment made by any one individual or organization.

The WT agreed that there should at least be one draft or interim report before a final version is released. The WT discussed that a WG could probably have four different kinds of output, of which possibly only the draft final report and the final report would be mandatory outputs:

- 1) An initial report which would be put out before the working group does any work at all and is meant to set the path of the charter questions and frame the deliberations on the group.
- 2) The second being an interim report which may or may not have initial recommendations for the public to consider.
- 3) The third being a draft final report which contains the recommendations and is at the end of the process and it essentially gives the public an opportunity to weigh in prior to the working group concluding
- 4) The last report being of course the final report.

It was pointed out that the current by-laws do not prohibit a WG to hold additional public comment periods on specific questions or other documents

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