



22 Mar 2010

Working Group Guidelines

Please accept the following comments in response to the GNSO Improvements Policy Process Steering Committee's (PPSC) publication of proposed Working Group Guidelines.¹ Go Daddy reserves the right to future comments on this issue and our positions include, but are not necessarily limited to, the text herein.

Go Daddy commends the work of the PPSC and their efforts to develop these guidelines. The GNSO Improvement process has been long, but as it nears completion, we are optimistic that it will yield significant benefits for the ICANN community in the years to come.

General Observations

Throughout the report, these recommendations are referred to as "Guidelines" or "Best Practices," implying that they are optional suggestions to be considered during the conduct of a working group. While we appreciate the need for flexibility to address unforeseen scenarios, our experience in past working groups shows that discussions regarding process can be just as contentious as those about policy substance. Therefore, we recommend strengthening these recommendations by calling them "Working Group Procedures."

The document makes frequent reference to the "Chartering Organization (CO)." Once again, while we appreciate the desire for flexibility, it is understood that this will be the GNSO Council in nearly all cases. But this is mentioned only once in Section 1.3. We therefore recommend that all references to "Chartering Organization" be replaced with "GNSO Council" throughout the document, with an explanatory note that the working group may be formed and governed by other organizations within ICANN. This convention is used throughout the remainder of our comment.

Specific Comments—Section 2

Section 2.1.2 describes the process requirements for gathering and vetting candidate members of the working group. It tasks the GNSO Secretariat with determining whether each prospective member is a "real person," but does not elaborate on how this will be determined.

Additionally, this section calls for both a Statement of Interest (SOI) and a Disclosure of Interest (DOI), but does not sufficiently explain the differences between them, and includes a template only for the SOI. Is there any opportunity to merge these, and/or include the DOI as a sub-section or component of the SOI? Also, has the PPSC WG-WT considered recommendations to verifying the claims made in member SOIs, or how the discovery of false information or material omissions may impact a member's standing within the working group?

Section 2.1.4.1 establishes instructions for the initial meeting of the working group, and emphasizes the ICANN principles of transparency and openness with regard to working group meetings, deliberations, and documents. However, does the PPSC WG-WT envision any exceptional scenarios in which the working group would desire confidentiality? There may be value in this, especially if the subject matter involves DNS security and stability vulnerabilities. Should the PPSC WG-WT consider an exception to the transparency requirement, it should set a high threshold for making such a request, and establish a clear process for disclosing the final output of any closed deliberations.

Section 2.1.4.2 outlines the selection of working group leadership positions. It notes that the working group can elect to have ICANN Staff serve in the role of working group Chair, but is this in accordance with ICANN by-laws? We ask that the PPSC WG-WT address this question with ICANN's General Counsel.

Further in this section, the document calls for the proposed working group Chair to be confirmed by the GNSO Council. Under what conditions would (or should) the Council reject the proposed Chair? Does the PPSC WG-WT envision a process by which the membership of the working group (including the rejected Chair) can appeal this decision?

Finally, this area may be an appropriate place to include some provisions for the GNSO Council to remove a working group Chair, Vice-Chair, Liaison, or other defined leadership position. These should include a description of general circumstances that would warrant Council intervention and removal.

Sections 2.2 and 2.3 further expand the definition of these roles, and outline the nature of sub-teams. We recommend that the PPSC WG-WT provide some guidance that requires working group leaders and sub-team members be familiar or have subject matter expertise in the areas to be addressed by the working group and/or sub-team.

Specific Comments—Section 3

Section 3.1 describes the expectations for participation by working group members, and the role of the Chair in determining quorum. Based upon experience in previous working groups, we recommend setting a maximum number of failed attempts to achieve quorum, at which point the GNSO Council would intervene to reconstitute the working group, which may include a new Call for Volunteers.

In the first paragraph of Section 3.3, the document discusses the re-opening of deliberations once a topic has been closed. In our opinion, this is an area that repeatedly causes delay and frustration in working groups. We recommend the PPSC WG-WT develop some additional guidance in this area, particularly with respect to the Chair's ability to declare a topic formally "closed," and under what conditions the working group might revive it. This may also address the related problem when a long-absent working group member re-joins the working group and wishes to re-open previous topics.

Section 3.4 establishes the Chair of the GNSO Council as the escalation contact for perceived violations of the Standards of Behavior, in the event that the Chair and Liaison do not satisfy the complainant's concerns. We recommend that there be some intermediary steps in this escalation path, including (1) raising the issue with the

GNSO Council representative for the complainant's stakeholder group, or (2) the appropriate Vice-Chair of the GNSO Council, given its new bicameral structure.

Section 3.6 asks the working group Chair to determine the level of consensus achieved for each working group position. The designations of "Unanimous Consensus" and "No Consensus" are self-evident, but there remains significant confusion regarding the differences between "Rough Consensus" and "Strong Support with Significant Opposition."

The lack of clear definition between these middle designations has surfaced in many working groups. We recommend that the PPSC WG-WT consider renaming "Strong Support" to "Minimal Consensus – Majority Agreement by a small margin." Alternatively, the PPSC WG-WT could combine the two into a single designation, such as "Support for Alternative Positions," with the understanding that the count and names of each member's position be included with the alternative view.

The PPSC WG-WT should specify any methods or tools available for use by the Chair or ICANN Staff to test consensus on a given topic. Potential examples include online surveys, straw polls, or a roll call on the working group mailing list.

The second paragraph refers to "any other rough consensus call," but we believe this is an error, and should read "any other consensus call." Please correct or clarify. The next sentence requires that "several participants" can follow the appeals procedure if they disagree with the consensus designation, but this term is subjective and ambiguous. We recommend this be modified to read "If *any* participant..."

The second and third steps of the appeals process are unclear, and require additional definition by the PPSC WG-WT. Many scenarios are not considered, for example, what if the Chair and Liaison do not agree on the level of consensus achieved? Is the GNSO Chair expected to resolve these differences as well, or refer these to the Council as a whole?

We strongly disagree with the proposal that explicitly listing working group participant names with each position should be "optional," for two reasons. First, this information may be significant in the event of any appeals of consensus designations by the Chair, or (as provided for in the RAA and Registry Agreements) the policy output of the working group. And secondly, ICANN's commitment to openness and transparency would prohibit any degree of anonymous participation in working groups. If there are any privacy concerns, then the GNSO Council should consider providing a privacy waiver as part of the call for volunteers as a requirement for participation.

Specific Comments—Section 4

Section 4.1 mentions the process by which a working group can request a face-to-face meeting, supported by ICANN Staff and (potentially) including ICANN funding for travel expenses. As we have experienced recently in other groups, this type of request should not be undertaken casually. The call for a face-to-face meeting must coincide with an urgent deliverable (report, recommendation, etc.) on the part of the working group, the delay of which would cause disruptions to ongoing work in other areas. Even in situations where this is true, there are numerous issues regarding geographic balance and stakeholder representation on the face-to-face group, equitable financial support for travel (given differences in travel distance and incurred expenses), and the disruption to other groups by having Staff present at the face-to-

face meeting. We ask that the PPSC WG-WT consider the experiences of other working groups who have either (a) requested or (b) successfully held face-to-face meetings, and modify their recommendations accordingly.

We would like to reiterate our appreciation to the PPSC WG-WT for their work in these areas, and our thanks for the opportunity to comment on their work thus far. It is our sincere desire to constructively participate in this process, and other areas of GNSO Improvement, to ensure the optimal function of this critical element of the ICANN Community.

Sincerely,
GoDaddy.com, Inc.

A handwritten signature in black ink, appearing to read "Tim Ruiz". The signature is stylized and cursive.

Tim Ruiz
Vice President
Corporate Development and Policy
GoDaddy.com, Inc.

1. <http://www.icann.org/en/announcements/announcement-05feb10-en.htm>