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The Intellectual Property Constituency appreciates the opportunity to comment on the ccNSO Assistance Group's "Preliminary Recommendation on ccNSO Council" (<http://www.icann.org/committees/evol-reform/ccnsoag-report-24dec02.htm>).

In the comments filed by the IPC last month on the preceding Preliminary Recommendation of the ccNSO AG, we stated:

"IPC believes that a critical aspect of the Blueprint for Reform (<http://www.icann.org/committees/evol-reform/blueprint-20jun02.htm>) was the decision to allocate "several" seats on the ccNSO Council for appointment by the Nominating Committee "in accordance with the criteria used to select Directors, but with emphasis on particular individuals who have a demonstrated interest in global names policy." We believe that these appointees will have a special responsibility for representing the interests of users of ccTLD services and others affected by their decisions, including intellectual property interests. In this regard, we look forward to reviewing the ccNSO Assistance Group's recommendations --"within the framework of the Blueprint," see the AG's charter at <http://www.icann.org/committees/evol-reform/status-report-17sep02.htm> -- regarding the ccNSO Council."

Now that we have reviewed the Preliminary Recommendation on the ccNSO Council, we are concerned about the following parenthetical statement in it: "[The PDP is being amended so that a final recommendation goes to member vote (and members are ccTLD managers only).]" Such an amendment would, in effect, divest the ccNSO Council of the authority to formulate and decide upon policy recommendations to the ICANN Board, and bestow that authority on the ccNSO membership. The result would be to eliminate the voice (or the vote) of anyone other than a ccTLD manager in making these fundamental decisions.

In the view of the IPC, this amendment would be inconsistent with what we believe to be a "critical aspect" of the Blueprint for Reform. Its adoption would call into question whether the ccNSO AG is operating "within the framework of the Blueprint." And it would negate the value of the public comment period previously provided on the AG's "Preliminary Recommendation on Policy-Development Process," <http://www.icann.org/committees/evol-reform/ccnsoag-report-11nov02.htm>,

We reiterate that another critical aspect of the Blueprint is the recommendation that the ccNSO should not be a mere trade association, but a forum wherein the voices of all the parties involved in the DNS could be heard and discussed. This fundamental goal of the ccNSO can be achieved by creating mechanisms that ensure the exchange of points of views and ideas with parties other than ccTLD registries. Eliminating all but ccTLD Managers from the final decisionmaking role on policy issues within the ccNSO would undermine this goal.

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For the reasons stated above, we urge the ccNSO AG not to amend the previously recommended Policy Development Process in the manner described.

In addition, the Preliminary Recommendation on ccNSO Council should be supplemented to reflect the fact that not all of the Council's members are to be elected by ccTLD managers. For instance, provision should be made for the filling of vacancies among the group of ccNSO Council members appointed by the Nominating Committee.

Finally, the AG should consider whether placing only three non-ccTLD managers on the ccNSO Council will be sufficient to produce the range of views and expertise that will optimally assist the ccNSO Council in its deliberations. The Blueprint calls for "several" such Council members. IPC urges the AG to recommend an increase in the number of Nominating Committee appointees on the ccNSO Council to six.

Thank you for considering the views of the IPC.