

Vertical Integration

Status update

GNSO Council

Sunday, June 20, 2010

Puzzles to Solve

- **Scope**

- Charter includes new and existing TLDs
- Charter includes a review of contracts to ID current/previous practices
- Charter asks us to ID and articulate changes cross-ownership, separation, and equivalent access to those proposed in the current DAG – but the Board resolution came at the end of the chartering process, which makes current-DAG a moving target

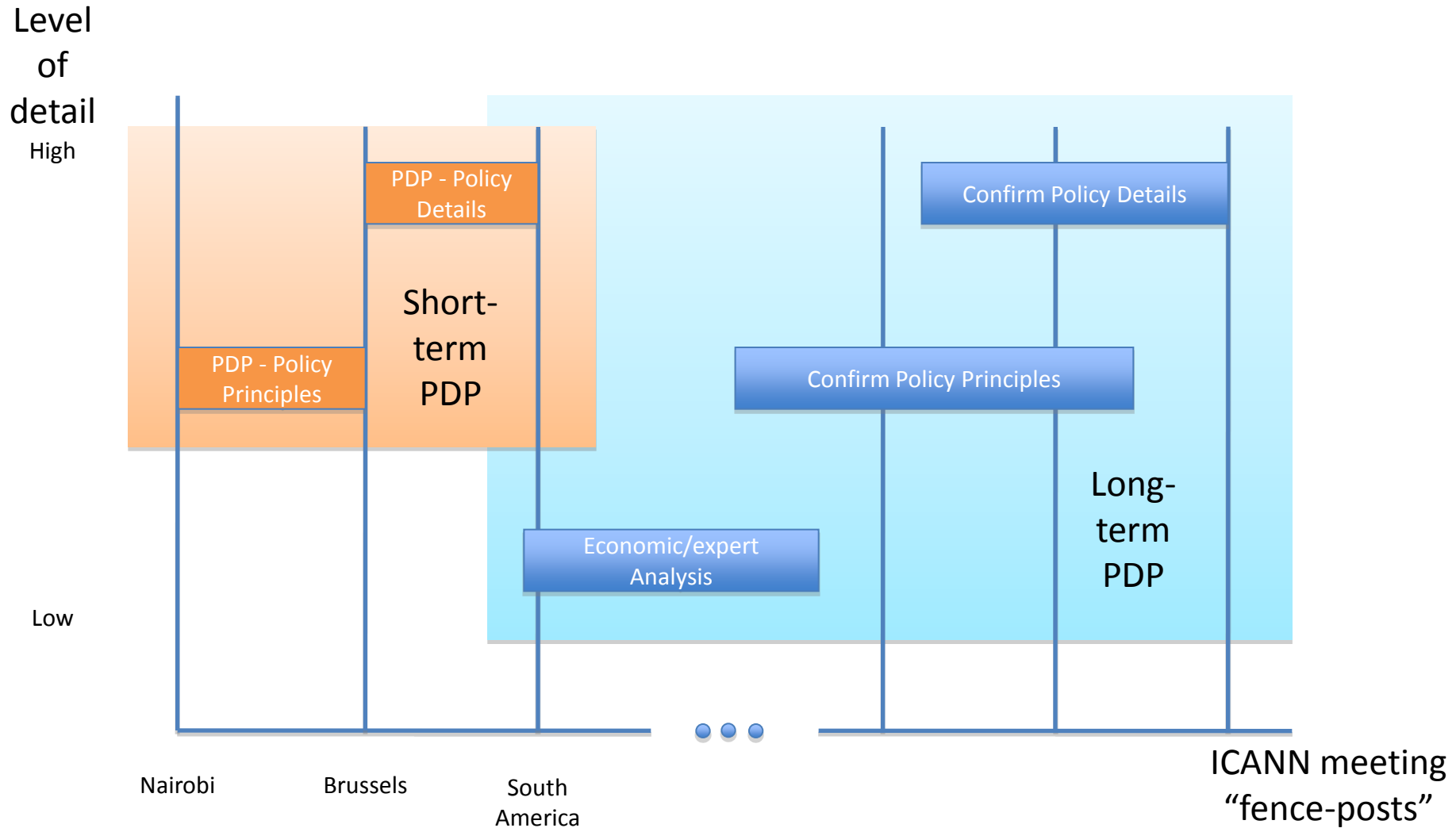
- **Approach/process**

- Project has been chartered as a PDP (avg time = ~400 days) but Obj 6 of the charter says “do not delay launch”
- Work plan in the charter needs revision to comply with bylaws and WG guidelines, which will lengthen it
- Some of the possible work (economic studies, regulatory analyses, etc.) may not lend itself to PDP approach/work-plan and certainly don't fit in a compressed schedule

- **Target dates?**

- DAG 4 – May 15th?
- Brussels – June 22nd?
- Next DAG deadline – guesstimate is mid-November?
- None of these – work until we are done?

Approach – VI is two PDPs in one



Announcement and membership applications

Obtain constituency statements (round 1)

Obtain constituency statements (round 2)

Planning sessions and first meeting

Lessons learned
Existing/baseline

Outside experience
New ideas

Develop Working Group initial report

Obtain public comments (round 1)

Obtain public comments (round 2)

Prepare and submit initial Phase I report

Submit update for review by Council

March April May June

6/20/2010

DAG 4 Deadline

Brussels⁴

GNSO Constituencies

WG members

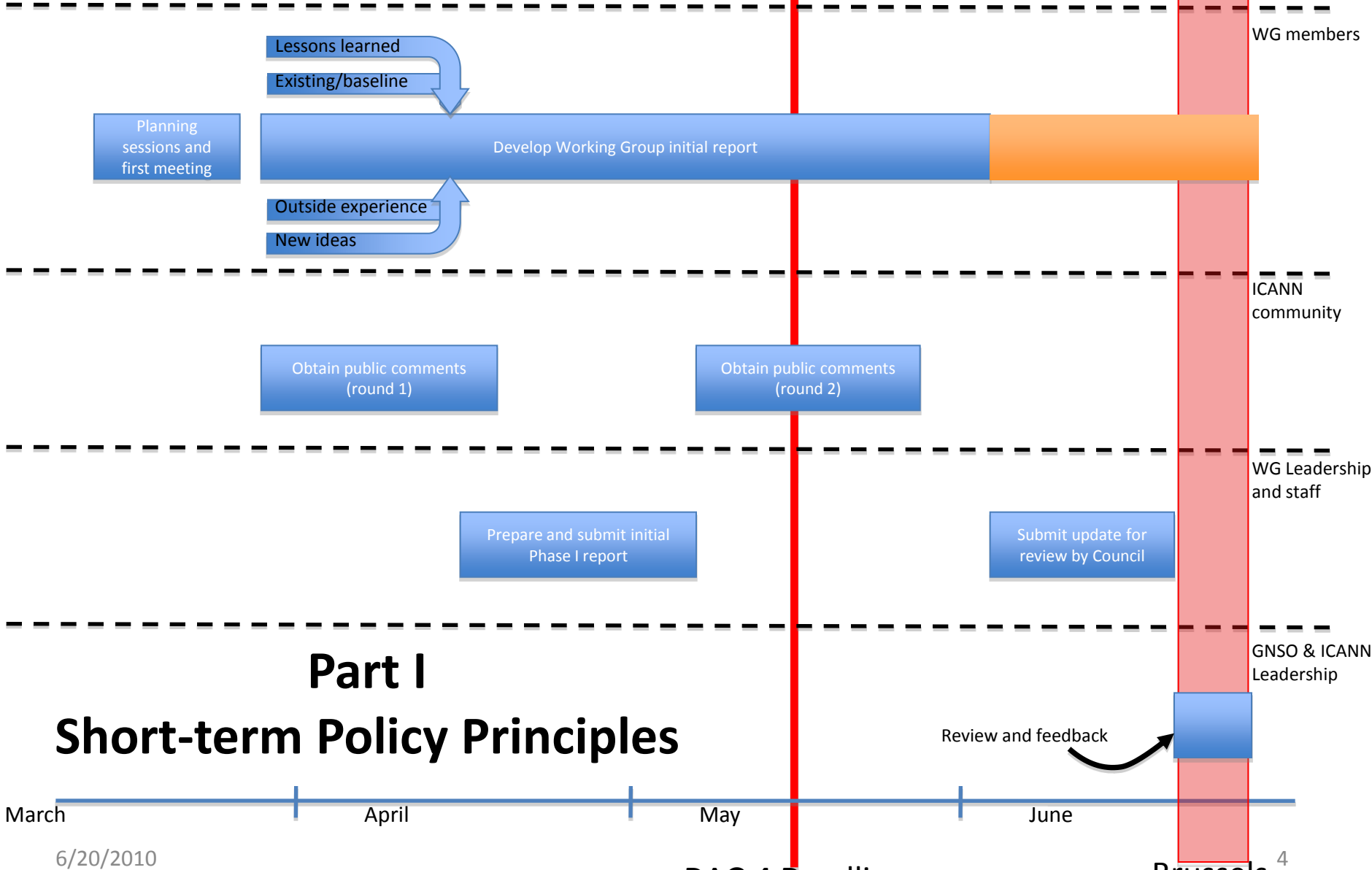
ICANN community

WG Leadership and staff

GNSO & ICANN Leadership

Part I Short-term Policy Principles

Review and feedback



GNSO
Constituencies

WG members

ICANN
community

WG Leadership
and staff

GNSO & ICANN
Leadership

Obtain constituency
statements (round 1)

Obtain constituency
statements (round 2)

Planning
sessions
and first
meeting

Develop Working Group initial
draft Phase II report

Revise initial
draft

Obtain public
comments (round 1)

Obtain public
comments (round 2)

Obtain public
comments (round 3)

Prepare and submit
initial Phase II report

Submit Phase I
report for
review by
Council

Part II

Short-term Policy Details

Council Approval

Board Approval

June July Aug Sept Oct Nov Dec

Brussels 5/20/2010

DAG Final
Deadline (estimate)

Current status:

We're late – but not for lack of trying

- Compressing a PDP into 180 days instead of 450-500
- Approaching 70 members
- 12 proposals (many with multiple drafts)
- 2000+ emails in 90 days
- Biweekly meetings for the last 3 weeks
- Face to face sessions in Brussels

Atoms

- Enforcement/compliance
- Control
- Common ownership
- Within TLD
- RSP

- Exceptions
- Single registrant
- Interim solution

One Molecule (of several)

- **Limits Apply Across All TLDs**

- Limits must apply regardless of the TLD operated by the Registry Operator, and regardless of the TLD(s) the Registrar is accredited in. In other words, the group endorsed the Board and DAG 4 language that says rules will apply across all TLDs, and there is no exception if the Registrar doesn't sell the TLD operated by their affiliated Registry Operator. The group believed that making such an exception would be equivalent of allowing close to 100% cross-ownership, as ICANN staff are not resourced or trained to properly control the many gaming scenarios Registrars could employ to sell the names in their affiliated Registry's TLD.

- **No Control Regardless of Ownership Percentage**

- There can be no control (as defined by DAG 4) between a Registrar and a Registry Operator, or between a Registry Operator and a Registrar, regardless of cross ownership percentages.

- **15% Ownership Limit**

- In addition to 2. (above), there can be no more than 15% ownership of a Registry Operator by a Registrar, or a Registrar by a Registry Operator. This limit recognizes that, even absent control, a Registry Operator may be incented to favor a Registry with whom they have significant cross-ownership (the group defined significant as higher than 15%).
- Alternate view – One sub-group was more focused on control and less on ownership percentage. In a sense then, one view is less concerned about the influence that can be exerted at lower ownership levels (absent control) and more concerned about the harms that can emerge when actual control is present. For example, it might be OK to have 49% cross-ownership, as long as control did not exist. It might also be OK to have greater than 50% ownership as long as control did not exist

Molecule (continued)

- Single Registrant/Single User TLD

- A Single Registrant, Single User (SRSU) TLD is one where the Registry Operator sets a policy where second level names can only be registered to the Registry Operator. Also, the use of those names in terms of website content, email control, or any other application associated with the domains, is exercised only by the Registry Operator. As a practical matter this means the Registry Operator is not providing second level names to other parties (who would have control over website content, email use, etc).
- We believe the registry contract in the current DAG already provides for this type of registry via the schedule of registry reserved names (which could be added to as the Registry Operator and ICANN agree). If there is perceived ambiguity about the applicability of this contract provision we believe the contract should be amended to explicitly allow for this type of SRSU TLD.
- If the DAG cannot be amended in this way, we believe there should be an exception to rules 1. to 3. (above) that allows the SRSU Registry Operator to have: (1) 100% control of a Registrar in their TLD; and (ii) no obligation to provide equal access to other Registrars. This exception is for the registration of names as described above. No sale of names to the public is contemplated.

- Registry Service Providers

- Currently, we do not have consensus about the applicability of rules 1. to 3. to RSPs.
- A proposal was made that if RSPs undertook a form of RSP accreditation with ICANN, and agreed to a set of significant sanctions directly with ICANN (should they be in breach of their obligations for such things as data integrity) that we might recommend 100% control of RSPs by Registrars (or vice versa). Such an 'amendment' was not yet agreed by the group - but there was considerable interest in it.

Next steps

- Possible outcomes at the end of Brussels
 - Confirm that consensus cannot be reached and move on to the long-term PDP
 - See substantial progress toward consensus and request an extension
 - ✓ **Arrive at consensus soon and launch the 2nd half of the short-term PDP**

Stay tuned for further bulletins