SUMMARY OF THE REPORT OF THE
BOARD GOVERNANCE COMMITTEE
GNSO REVIEW WORKING GROUP ON GNSO IMPROVEMENTS

3 February 2008

FOR PUBLIC INFORMATION ONLY

The Board Governance Committee (BGC) created a working group, comprising current and former Board members, to oversee improvements to the Generic Supporting Names Organization (GNSO). The purpose of the "BGC GNSO Review Working Group" (BGC WG) is to consider the reviews conducted by the London School of Economics Public Policy Group and others to determine whether, in general, the GNSO has a continuing purpose in the ICANN structure and, if so, whether any change in structure or operations is desirable to improve its effectiveness. The Board charged the BGC WG with recommending a comprehensive proposal to improve the effectiveness of the GNSO, including its policy activities, structure, operations and communications.

This Report on GNSO Improvements (Report) summarizes our examination of many aspects of the GNSO's functioning, including the use of working groups and the overall policy development process (PDP), and the structure of the GNSO Council and its constituencies. We have been guided by several key objectives, including (i) maximizing the ability for all interested stakeholders to participate in the GNSO's processes; (ii) ensuring recommendations can be developed on gTLD "consensus policies" for Board review, and that the subject matter of "consensus policies" is clearly defined; (iii) ensuring policy development processes are based on thoroughly-researched, well-scoped objectives, and are run in a predictable manner that yields results that can be implemented effectively; and (iv) improving communications and administrative support for GNSO objectives. We also have considered carefully the thoughtful public comments submitted and taken them into account in the preparation of this Report. Above all, we have sought ways to improve inclusiveness and representativeness in the GNSO's work, while increasing its effectiveness and efficiency. Our deliberations have achieved near consensus on a comprehensive set of recommendations that addresses five main areas:

Adopting a Working Group Model: A working group model should become the focal point for policy development and enhance the policy development process by making it more inclusive and representative, and – ultimately – more effective and efficient. This approach can be a more constructive way of establishing areas of agreement than task forces, where membership is limited and discussion can become polarized along constituency lines. It also enables key parties to become involved in the beginning and work together to address complex or controversial issues. Appointing skilled chairs and drafters, as well as proper scoping of the WG's objectives, will be integral parts of development of a successful model. Steps should be taken immediately to move to a working group model for future policy development work, developing appropriate operating principles, rules and procedures that can draw upon expertise gained from policy development in the IETF, W3C, RIRs and other organizations.

Revising the PDP: The PDP needs to be revised to make it more effective and responsive to ICANN's policy development needs. It should be brought in-line with the time and effort actually required to develop policy, and made consistent with ICANN's existing contracts (including, but not limited to, clarifying the appropriate scope of GNSO "consensus policy" development). While the procedure for developing "consensus policies" will need to continue to be established by the Bylaws as long as required by ICANN's contracts, the GNSO Council and Staff should propose new PDP rules for the Board's consideration and approval that contain more flexibility. The new rules should emphasize the importance of the preparation that must be done before launch of a working group or other activity, such as public discussion, fact-finding, and expert research in order to define properly the scope, objective and schedule for a specific policy development goal, and the development of metrics for measuring success.

Restructuring the GNSO Council: The Council should move away from being a legislative body concerned primarily with voting towards becoming a smaller, more focused strategic entity, composed of four broad stakeholder groups, with strengthened management and oversight of the policy development process, term limits for members of the Council, the elimination of weighted voting and a training and development curriculum for Council members. The BGC WG deliberated extensively as to the most appropriate way to restructure constituency representation on the Council. We recommend a 19-person Council consisting of 16 elected members, four from each of four stakeholder groups, with two of these groups representing those parties "under contract" with ICANN, namely registries (4 seats) and registrars (4 seats). These we refer to as "ICANN contracted parties." The other two stakeholder groups will represent those who are "affected by the contracts" ("ICANN non-contracted parties"), including commercial registrants (4 seats) and non-commercial registrants (4 seats). In addition, three Councilors would be appointed by the Nominating Committee (pending conclusion of the NomCom Improvement process). In addition, as the Council moves from being a legislative body to a strategic manager overseeing policy development, the current emphasis on formal voting should be significantly reduced.

A minority of Working Group members suggests explicitly recommending that "ICANN non-contracted parties" be apportioned into 5 seats for commercial registrants and 3 seats for non-commercial registrants.

An additional minority view suggests -- as stated in the Working Group's previous report -- that the GNSO Council should have the flexibility to propose an alternative configuration of the stakeholder groups that comprise the "ICANN non-contracted parties" side, provided that such alternative is submitted with sufficient notice to permit the Board to vote on the proposal at the Paris ICANN meeting in June 2008. Conversely, if no alternative proposal is forwarded to the Board within this timeframe, the configuration proposed above should be implemented.

Enhancing Constituencies: Constituency procedures and operations should become more transparent, accountable and accessible. The Board should ask the GNSO constituencies to work with staff to develop participation rules and operating procedures

for all constituencies that set certain minimum standards regarding the importance of transparency and accountability. The criteria for participation in any ICANN constituency should be objective, standardized and clearly stated. In addition, Staff should work with each of the constituencies to develop global, targeted outreach programs aimed at increasing participation and interest in the GNSO policy process, including information on the option to self-form new constituencies.

Improving Communication and Coordination with ICANN Structures: There should be more frequent contact and communication between the GNSO Council, GNSO constituencies and the members the Council elects to the Board, and among the Chairs of the GNSO, other Supporting Organizations (SOs) and Advisory Committees (ACs), especially in advance of each ICANN Meeting. The Council and the GNSO constituencies should consider additional ways in which the GNSO can further improve communication, cooperation and coordination with other ICANN structures.

The Report describes our recommendations and rationale in detail. We believe there is broad and strong support for changes in the functioning of the GNSO, based on input from GNSO participants and other members of the ICANN community. While the need to update and improve the GNSO is not disputed, there is no magical set of proposals that could be received without controversy or opposition. We have therefore balanced, as best we can, different – and sometimes competing – interests in order to formulate recommendations on the basis of what we believe can benefit the ICANN community as a whole. The GNSO improvements process is evolutionary and is intended to reflect the importance of the GNSO to ICANN and to build upon the GNSO's successes to-date.

This report has been submitted to the full Board Governance Committee (BGC) for its consideration, and is being posted for public information. If approved by the BGC, this report will be submitted for Board action after a public comment period. If approved by the Board, staff will be directed to develop an implementation plan in consultation with the community.

As the community and the Board consider the proposals outlined in the Report, it is important to keep in mind that this is an evolutionary process intended to reflect the importance of the GNSO to ICANN and to build upon the GNSO's successes to date.