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| **Team Name:** | **Temporary Specification for gTLD Registration Data Expedited Policy Development Process Team (Temp Spec gTLD RD EPDP Team)** | | | | |
| **Section I:  Team Identification** | | | | | |
| **Chartering Organization(s):** | | Generic Names Supporting Organization (GNSO) Council | | | |
| **Charter Approval Date:** | | TBD | | | |
| **Name of Team Chair/Co-Chairs:** | | TBD | | | |
| **Name(s) of Appointed Liaison(s):** | | TBD | | | |
| **Team Workspace URL:** | | TBD | | | |
| **Team Mailing List:** | | TBD | | | |
| **GNSO Council Resolution:** | | **Title:** | Motion to Approve the Charter for the  Temporary Specification for gTLD Registration Data EPDP Team | | |
| **Ref # & Link:** | TBD | | |
| **Important Document Links:** | | EPDP Initiation Request  [Temporary Specification for gTLD Registration Data](https://www.icann.org/resources/pages/gtld-registration-data-specs-en)  [Annex A-1 GNSO Expedited Policy Development Process of the ICANN Bylaws](https://www.icann.org/resources/pages/governance/bylaws-en/#annexA1)  [Expedited GNSO PDP Manual](https://gnso.icann.org/sites/default/files/file/field-file-attach/annex-4-epdp-manual-30jan18-en.pdf)  [GNSO Working Group Guidelines](https://gnso.icann.org/sites/default/files/file/field-file-attach/annex-1-gnso-wg-guidelines-30jan18-en.pdf) | | | |
| **Section II:  Mission, Purpose, and Deliverables** | | | | | |
| **Mission & Scope:** | | | | | |
| **Background**  On 17 May 2018, the ICANN Board of Directors (ICANN Board) adopted the Temporary Specification for generic top-level domain (gTLD) Registration Data (“Temporary Specification”) pursuant to the procedures for the establishment of temporary policies in ICANN’s agreements with Registry Operators and Registrars. The Temporary Specification provides modifications to existing requirements in the Registrar Accreditation and Registry Agreements to attempt to bring them into compliance with the European Union’s General Data Protection Regulation (GDPR). Per the procedure for Temporary Policies as outlined in the Registry Agreement and Registrar Accreditation Agreement, following adoption of the temporary specification, the Board “shall immediately implement the Consensus Policy development process set forth in ICANN’s Bylaws”. Per the requirements of the procedure for Temporary Policies, this Consensus Policy development process on the temporary specification would need to be carried out within a one year period.  At its meeting on DD MONTH 2018, the GNSO Council [unanimously] initiated an Expedited Policy Development Process on the Temporary Specification for gTLD Registration Data and adopted this charter for the EPDP Team to deliberate the issues of topic X……….  **Mission and Scope**  This EPDP Team is being chartered to determine, at a minimum, if the Temporary Specification for gTLD Registration Data should become an ICANN Consensus Policy. As part of this determination, the EPDP Team is, at a minimum, expected to consider the following elements of the Temporary Specification and answer the following charter questions:  a)     Purposes outlined in Sec. 4.4.1-4.4.13 of the Temporary Specification:  a1) Are the purposes enumerated in the Temporary Specification valid and legitimate?  a2) Do those purposes have a corresponding legal basis?  a3) Should any of the purposes be eliminated or adjusted?  a4) Should any purposes be added?    b)     Collection of data from registrant by registrar:  b1) Should registrars continue to collect contact data for Registrant, Tech, Admin and Billing contacts?  b2) What data is collected because it is necessary to deliver the service of fulfilling a domain registration vs. for other purposes?  b3) Should registrars continue to collect all data elements for each contact?    c)     Transfer of data from registrar to registry:  c1) Should registrars continue to transfer contact data for all contacts to (thick) registries?  c2) What data is transferred to the registry because it is necessary to deliver the service of fulfilling a domain registration vs. for other purposes?  c3) Should registries have the option to require contact data or not?    d)     Transfer of data from registrar/registry to data escrow provider:  d1) Should there be any changes made to the policy that registries and registrars transfer all data that they acquire to the data escrow provider?    e)     Transfer of data from registrar/registry to ICANN Compliance:  E1) Should there be any changes made to the policy that registries and registrars transfer all data that they acquire to ICANN Compliance, when required/requested?    f)      Publication of data by registrar/registry:  f1) Should there be any changes made to data that is required to be redacted?  f2) Should uniform requirements on registrant contact mechanism be developed?    g)     Data retention:  g1) Should adjustments be made to the data retention requirement (life of the registration + 2 years)?  g2) If not, are changes to the waiver process necessary?    h)     Applicability of Data Processing Requirements  h1) Should CPs be allowed or required to differentiate between registrants on a geographic basis?  h2) Should CPs be allowed or required to treat legal and natural persons differently?    i)      Transfer of data from registry to EBERO  i1) Considering that in an EBERO scenario, no data is actually transferred from a registry to an EBERO, should this data processing activity be eliminated?    j)      Disclosure of non-public data to outside parties  j1) Should existing requirements in Temporary Specification remain in place until an Access Model is agreed?    k)     ICANN's responsibilities in processing data  k1) For which data processing activities does ICANN determine the purpose and means of processing?  k2) What are ICANN's responsibilities to the data subject based on the above?    l)      Registrar's responsibilities in processing data  l1) For which data processing activities does the registrar determine the purpose and means of processing?  l2) Which data processing activities does the registrar undertake solely at ICANN's direction?  l3) Are there processing activities that registrars may optionally pursue?  l4) What are the registrar's responsibilities to the data subject based on the above?    m)   Registry's responsibilities in processing data  m1) For which data processing activities does the registry determine the purpose and means of processing?  m2) Which data processing activities does the registry undertake solely at ICANN's direction?  m3) Are there processing activities that registries may optionally pursue?  m4) What are the registry's responsibilities to the data subject based on the above?    n)     Uniform Rapid Suspension (URS)  n1) Should Temporary Specification language be confirmed, or are additional adjustments needed?    o)     Uniform Domain-Name Dispute-Resolution Policy (UDRP)  o1) Should Temporary Specification language be confirmed, or are additional adjustments needed?    p)     Transfer Policy  p1) Should Temporary Specification language be confirmed until a dedicated PDP can revisit the outdated transfer policy?    q)     Sunsetting WHOIS Contractual Requirements  q1) After migration to RDAP, when can requirements in contracts to use WHOIS protocol be eliminated?  r) In order to remain effective, the EPDP must track ongoing issue developments that are deemed relevant to its work, (e.g. Court decisions, guidance from regulatory bodies, discussions within the community. For purposes of this EPDP, the EPDP Team is not expected to consider the following issues, although information in relation to these issues could inform deliberations:   * Issue A * Issue B   In terms of procedure, the group may wish to consider forming sub-groups to work on particular issues or sub-topics in order to expedite its work and discussions. | | | | | |
| **Policy Goals and Related Metrics:** | | | | | |
| *[Define the policy goals for the proposed policy change and the metrics that will measure the achievement.*   1. *Determine the policy goals for this exercise, within the parameters set by the Interim Specification* 2. *Identify potential policy goals that were omitted in the interim Specification and set aside for further Council deliberation* 3. *Determine a set of questions which, when answered, provide the insight necessary to achieve the agreed policy goals.* 4. *Determine the types of data that may assist the WG in better scoping the issues and identify whether it can be collected within the timeframe, and assemble it or substitute information that can be analyzed to help answer each question.* 5. *Determine a set of metrics which can be applied to the data, analysis, and achievement of policy objectives. Collect this data to the extent feasible, and determine a process for ongoing metric anaylsis and program evaluation to measure success of this policy process.(The [Hints and Tips page](http://gnso.icann.org/en/council/procedures/hints-tips) on the GNSO website contains more details on use of data and metrics.]* | | | | | |
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| **Deliverables & Timeframes:** | | | | | |
| The aim is to develop, at a minimum, an Initial Report and a Final Report containing the Team’s recommendations on issues relating to the Temporary Specification for gTLD Registration Data, following the processes described in Annex A and A-1 of the ICANN Bylaws and the GNSO Expedited PDP Manual. [The Initial Report should be submitted to the relevant Data Protection Authorities to request feedback on the interpretation of the law with respect to the interim specification, and the EPDP’s proposed recommendations]. The first deliverable of the EPDP Team shall be a triage document of the Temporary Specification, where items having Full Consensus of the group are:   * In the body of the Temporary Specification not including the Annex * Within the "picket fence" (contract clauses defining what can be specified in a Consensus Policy) * Not obviously in violation of the GDPR / Assumed to be compliant with GDPR [Presumed to be legal according to the members’ best knowledge of GDPR] * Consistent with ICANN’s Bylaws * ~~Uncontested as being a sound policy clause~~   Deliberations of this first deliverable should include at least one round of elimination of clauses, if appropriate, and a second round of Full Consensus approval of a complete set of required clauses.  The second deliverable, to be achieved in time for the Initial Report, shall consist of the items not flagged as disqualifying under the criteria above, and of the items flagged as not being in the picket fence, regardless of other disqualifying criteria. ~~That initial report would go out to public comment.~~  The Team shall respect the timelines and deliverables as outlined in Annex A and A-1 of the ICANN Bylaws and the EPDP Manual. As per the GNSO EPDP Working Group Guidelines, the Team shall develop a work plan that outlines the necessary steps and expected timing in order to achieve the milestones of the EPDP as set out in Annex A and A-1 of the ICANN Bylaws and the EPDP Manual and submit this to the GNSO Council. Any significant updates to the work plan must be communicated in a timely manner to the GNSO Council with an explanation as to why the work plan needed adjustment.  https://lh4.googleusercontent.com/-nuDjvH__9F4PNK8ZG230kLhbbvaDatHOabqHvFx0sCX1x4ZdRBxNP1qgD8q8klteiHXVccvLEpHf8A5zaTVsq4uqlkf99u9dQoVno1-TS5cG9oUsbcn8YjKJggrLJg5zc95yV628AWfOcWhGg  If the Team concludes with any recommendations, the Team must include a policy impact analysis and a set of metrics to measure the effectiveness of the proposed policy change, including source(s) of baseline data for that purpose:  The work of the team, including analysis of what should remain in the final policy, what should be removed, what is within the “picket fence”, and any new insertions, needs to be subjected to a policy impact assessment that will assess whether it achieves:   * Identification of policy goals * Identification of metrics used to measure whether policy goals are achieved * Identification of potential problems in attaining the data or developing the metrics * A suggested timeframe in which the measures should be performed * Reasonable definition of the current state baselines of the policy and define initial benchmarks that define success or failure * Metrics may include but should not be limited to (Refer to the [Hints & Tips Page](http://gnso.icann.org/en/council/procedures/hints-tips)): * ICANN Compliance data * Industry metric sources * Community input via public comment * Surveys or studies (for which recommendations from this EPDP may be required) | | | | | |
| **Section III:  Formation, Staffing, and Organization** | | | | | |
| **Membership Criteria:** | | | | | |
| |  | | --- | | GNSO Stakeholder Groups and ACs/SOs appointing members to the EPDP Team should make reasonable efforts to ensure that each individual member:   * Has sufficient and appropriate motivation, availability and expertise to participate in the substance of the work of the EPDP Team. Appropriate experience could, for example, include experience with the previous RDS/WHOIS policy development processes, task forces, or implementation review teams, or participation in EWG efforts; * Commit to abide by the EPDP Team Commitment Statement, and to accept the consequences of non-compliance as may be determined by the EPDP leadership or appointing group; * Commit to build consensus on issues within the scope of this EPDP; * Commit to actively participate in the activities of the EPDP on an on-going and long-term basis, for a period of no less than one-year, with the highest intensity expected in the first six to eight months; * Solicit and communicate (where appropriate) the views and concerns of individuals in the group that appoints them; * Commit to abide by the charter when participating in the EPDP Team; * Understand the needs of the Internet communities that ICANN serves (standards, domains and numbers); * Commit to attend any provided introductory training courses, e.g., privacy, trademarks, registrar operations, DNS, etc. * Understand the broader ecosystem (the Internet Community) in which ICANN operates and the needs of those working on other aspects of the Internet industry. * Understand and respect the impact of national and regional laws on the actors in the ICANN community. | | | | | | |
| **Group Formation, Dependencies, & Dissolution:** | | | | | |
| **EPDP Team**  Proposed Temp Spec EPDP Membership Structure   * GNSO Members are appointed by GNSO Stakeholder Groups and Constituencies. Each SG may appoint up to 3 Members. For the purpose of assessing level of consensus, Members are required to represent the formal position of their SG/C, not individual views or positions. * Other ICANN SO/ACs will be invited to appoint up to 3 Members each. * All groups may appoint up to 3 Alternates, who will only participate if a Member is not available. Alternates will be responsible for keeping up with all relevant EPDP WG deliberations to ensure they remain informed and can contribute when needed. * 2 ICANN Staff Liaisons (one from Legal, one from GDD) * 2 ICANN Board Liaisons * 1 GNSO Council Liaison * 1 independent Chair (neutral, not from the WG membership/participants) * The WG may invite expert contributors and other resources as deemed necessary by the WG leadership. * Observers may observe the EPDP Team and would be subscribed to the mailing list on a read-only basis, but are NOT able to post. Observers are NOT allowed to participate in the EPDP Team meetings, but may attend by the usual remote means. * GNSO SG/C participation is required for establishing consensus. Lack of participation will be considered an abstention during a consensus call, if required. * SO/AC participation is optional and not required for establishing consensus. * For the purpose of assessing consensus, and in order to reflect and respect the current balance and bicameral structure of the GNSO Council, the Chair shall apply necessary and appropriate weight to the positions of the respective groups.  |  |  |  |  |  | | --- | --- | --- | --- | --- | | GROUP | MEMBERS | ALTERNATES | LIAISONS | TOTAL MEMBERS | | RySG | 3 | 3 |  | 3 | | RrSG | 3 | 3 |  | 3 | | IPC | 2 | 2 |  | 3 | | BC | 2 | 2 |  | 3 | | ISPCP | 2 | 2 |  | 3 | | NCSG | 6 | 6 |  | 3 | | GAC | 3 | 3 |  | 3 | | ALAC | 3 | 3 |  | 3 | | SSAC | 3 | 3 |  | 3 | | ccNSO | 3 | 3 |  | 3 | | ICANN STAFF |  |  | 2 | 2 | | ICANN BOARD |  |  | 2 | 2 | | GNSO COUNCIL |  |  | 1 | 1 | | EPDP CHAIR |  |  | 1 | 1 | | TOTALS | 30 | (30) | 6 | 36 |   Board liaison(s) are expected to share on a regular basis any input the Board may have that will inform the EPDP team deliberations and ongoing work. Similarly, Board liaison(s) are expected to keep the Board informed concerning the status of the EPDP Team deliberations. The Board Liaison(s) are not expected to advocate for any position and/or participate in any EPDP Team consensus calls.  The EPDP Team would be expected to make provisions as part of its work plan to provide regular updates to the broader ICANN community and others interested, for example, through newsletters and/or webinars.  **EPDP Team Leadership**  Selection of EPDP Team Leadership  The GNSO Council will appoint a qualified Chair for the ePDP. Below as Annex A is a description of the qualifications and role of the Chair for this ePDP.  The Working Group, once formed, will select two Vice Chairs to assist the Chair.   Staff will publish a request for Expressions of Interest for the role of Chair.  The GNSO Council will review the responses and will propose a Chair, and vote on the selection.  The Expression of Interest should address the following issues:   * Why they are interested in the position. * What particular skills they believe are important to Chairing the ePDP. * Their knowledge of the Temporary Specification and the process to develop consensus policy. * Their understanding of ICANN and the gNSO Policy Development Process. * That they understand the time necessary required to Chair the ePDP and can commit to this role. * Conflict of interest statement * Include updated Statement of Interest (SOI)        ANNEX A  As outlined in the GNSO Working Group Guidelines (WGG), the purpose of a Chair is to call meetings, preside over working group deliberations, manage the process so that all participants have the opportunity to contribute, and report the results of the Working Group to the Chartering Organization. These tasks require a dedicated time commitment as each week calls have to be prepared, the agenda concretized, and relevant material has to be reviewed.  ALTERNATIVE ONE: The Chair shall be neutral and, in order to ensure such neutrality, the Chair must not be a member of any group which also has representation on the Working Group. The Chair shall not be a member of the Working Group for purposes of consensus calls. ALTERNATIVE TWO: The Chair shall be neutral. While the Chair may be a member of any group which also has representation on the Working Group, the Chair shall not act in a manner which favors such group.  The Chair shall not be a member of the Working Group for purposes of consensus calls.  In addition, it is required – that interested candidates have considerable experience in Chairing working groups, and direct experience with at least one GNSO Policy Development Process throughout its lifecycle would be an advantage. Familiarity with the functioning of a Working Group is important to understand the various leadership skills that are necessary to employ during a WG’s lifecycle. For example, a chair has to ensure that debates are conducted in an open and transparent matter and that all interests are equally represented within the Group’s discussions. During the later stages of a WG when recommendations are drafted, a Chair will benefit from understanding the viewpoints of various participants to ensure that an acceptable and effective outcome – ideally in form of consensus – can be achieved.   In short, a WG Chair is expected to: i.    Attend all WG meetings to assure continuity and familiarity with the subject matter and the on-going discussions; ii.    Prepare meetings by reading all circulated materials; iii.    Be familiar with the subject matter, including but not limited to GDPR and trademark law, and actively encourage participation during the calls iv.    Be active on the WG mailing list and invite WG participants to share their viewpoints; v.    Drive forward the WG and assure that discussions remain on point; vi.    Work actively towards achieving policy recommendations that ideally receive full consensus; vii.    Ensure that particular outreach efforts are made when community reviews are done of the group's output; viii.    Underscore the importance of achieving overall representational balance on any sub-teams that are formed; ix.    Encourage and, where necessary, enforce the ICANN Standards of Behavior. x.    Co-ordinate with ICANN staff and assure that the WG is supported as effectively as possible xi.    Conduct consistent timely reporting to the GNSO Council on the progress of the ePDP.  Finally, as also pointed out the in GNSO Working Group Guidelines, ‘appointing a co-chair(s) or vice-chair(s) may facilitate the work of the Chair by ensuring continuity in case of absence, sharing of workload, and allowing the Chair to become engaged in a particular debate.’ As a result, similar tasks and skills are expected from co/vice chairs, although the overall workload may be reduced as a result of being able to share this with the chair(s).  **Role of the GNSO Council Liaison**  The GNSO Council shall appoint a liaison who is accountable to the GNSO.  The liaison must be a member of the Council, and the Council recommends the liaison be a Council member able to serve during the life of this EPDP.  Generally speaking, the liaison is expected to fulfill the liaison role in a neutral manner, monitor the discussions of the Working Group and assist, and inform the Chair and the EPDP Team as required.   * The liaison may serve as an interim EPDP Team Chair until a Team Chair is named. As per current practice, it would not be appropriate for the liaison to be considered for a permanent Chair or co-chair/vice-chair position; * The liaison is expected to report to the GNSO Council on a regular basis (at a minimum, at or before an ICANN public meeting and as issues or significant milestones arise in the group’s work) on the progress of the Working Group. Such report is expected to be coordinated with the EPDP Team leadership; * The liaison will assist the EPDP Team Chair as required with his/her knowledge of policy development processes and practices; * The liaison will refer to the Council any questions or queries the EPDP Team might have in relation to its charter and mission; * The liaison will assist or engage when the EPDP Team faces challenges or problems, and will notify the Council of efforts in this regard; * The liaison will assist the EPDP Team Chair in suspected cases of abuse of ICANN’s Expected Standards of Behavior and/or restricting the participation of someone who seriously disrupts the Team; * The liaison will facilitate in case there is disagreement between the EPDP Team Chair and EPDP Team member(s) in relation to designation of consensus given to a certain recommendations. * The liaison is expected to be a regular attendee/participant of EPDP Team meetings; * The liaison is expected to fulfil his/her role in a neutral manner. Should the liaison wish to intervene/participate in EPDP Team deliberations in his/her personal capacity, the liaison is expected to make it explicitly clear when he/she is speaking in liaison capacity and when speaking in personal capacity. * The GNSO Council liaison is responsible for ensuring that the EPDP Team Chair(s) are informed about activities of the GNSO Council that have an impact on the EPDP Team. This includes not only actions taken with respect to substance related to the Team, but also any actions taken on matters upon which the Team depends or on which the Council depends on the Team. * The GNSO Council Liaison should participate in regular meetings with the EPDP Team Leadership and consult with EPDP Team Leadership prior to providing updates or reports to the GNSO Council. * The GNSO Council Liaison should be the person upon whom the Team relies to convey any communications, questions or concerns to the GNSO Council.   Taking into account the role and responsibilities of the liaison identified above, the GNSO Council furthermore expects that the liaison:   * Will do his/her best to stay up to date on the deliberations to be in a position to provide the GNSO Council with updates at appropriate times; * Will make clear when he/she is acting in her liaison capability vs. participating as a EPDP Team member; * Is alert to situations that may require liaison involvement and be prepared to act swiftly, when needed; * Will notify the GNSO Council as soon as he/she is no longer able to take on these responsibilities so that another liaison can be identified; and * Will notify the Council in a timely manner should there be any adjustment to the work plan and especially any delay that may have occurred in meeting the EPDP milestones. | | | | | |
| **Recommended Working Methods and Resources** | | | | | |
| In order to optimize the time available for deliberations, the EPDP Team is expected to consider modifying existing working methods such as having more regular and/or longer calls than typical PDP WGs do. Similarly, the EPDP Team should consider which tools provide the best flexibility to facilitate online collaboration, such as the wiki and Google docs. All such methods must enable good record-keeping and transparency requirements.  In addition to the standard services provided to GNSO PDP Working Groups such as policy staff support, mailing lists and regular conference calls, including recording and transcription where needed (frequency and duration to be decided by EPDP team), the EPDP team will need appropriate support to:     * Conduct a minimum of three F2F meetings in a cost-efficient manner. Based on the timeline it is the expectation that the EPDP Team may need F2F time to: 1) establish trust and commitment to working methods 2) develop its draft Initial Report (estimated to take place in mid-September 2018) 3) potential additional days immediately after the ICANN AGM in October to finalize its Initial Report, and 4) depending on input received, a meeting to review and consider public comments and finalize the report for submission to the GNSO Council (estimated timeframe December-January). * External Legal counsel/advice to be used when deemed necessary, in keeping with sound budgeting practices. Needs could include confirming the compliance of the proposed policy recommendations/ deliverables with GDPR and other applicable law (e.g. Electronic evidence, Charter, etc.). External legal counsel/advice should only be sought if adequate support cannot be provided through existing resources and DPA guidance. The decision to request external legal advice must be approved by the EPDP Team leadership. * External experts/Advisors such as a data protection/GDPR expert, to complement expertise within the EPDP. * Facilitate possible input from, and provide communication mechanisms for those who are not members of the EPDP team. This could include communications support for the development of newsletters or the regular hosting of webinars. EPDP team members are still expected to liaise with their respective groups for information and inputs.     In its decision to request any of these additional services, the EPDP Team will act in a fiscally prudent manner and ensure cost efficient use of any additional resources that are provided and/or allocated budget. Any requests for additional services need to be made by the EPDP Team leadership with the support of the EPDP Team. | | | | | |
| **Working Group Roles, Functions, & Duties:** | | | | | |
| The ICANN Staff assigned to the EPDP Team will fully support the work of the Team as requested by the Chair including meeting support, document drafting, editing and distribution and other substantive contributions when deemed appropriate.   Staff assignments to the Working Group:   * GNSO Secretariat * ICANN policy staff members   In addition, regular participation of and consultation with other ICANN Org departments such as GDD and Legal is anticipated to ensure timely input on issues that may require ICANN Org input such as implementation related queries.    The standard WG roles, functions & duties shall be applicable as specified in Section 2.2 of the Working Group Guidelines. | | | | | |
| **Statements of Interest (SOI) Guidelines:** | | | | | |
| Each member of the EPDP Team is required to submit an SOI in accordance with Section 5 of the GNSO Operating Procedures. | | | | | |
| **Section IV:  Rules of Engagement** | | | | | |
| **Decision-Making Methodologies:** | | | | | |
| *{Note: The following material was extracted from the Working Group Guidelines, Section 3.6. If a Chartering Organization wishes to deviate from the standard methodology for making decisions or empower the Team to decide its own decision-making methodology, this section should be amended as appropriate}.*  The Chair will be responsible for designating each position as having one of the following designations:   * **Full consensus** - when no one in the group speaks against the recommendation in its last readings. This is also sometimes referred to as **Unanimous Consensus.** * **Consensus** - a position where only a small minority disagrees, but most agree. *[Note: For those that are unfamiliar with ICANN usage, you may associate the definition of ‘Consensus’ with other definitions and terms of art such as rough consensus or near consensus. It should be noted, however, that in the case of a GNSO PDP originated Working Group, all reports, especially Final Reports, must restrict themselves to the term ‘Consensus’ as this may have legal implications.]* * **Strong support but significant opposition** - a position where, while most of the group supports a recommendation, there are a significant number of those who do not support it. * **Divergence** (also referred to as **No Consensus**) - a position where there isn't strong support for any particular position, but many different points of view. Sometimes this is due to irreconcilable differences of opinion and sometimes it is due to the fact that no one has a particularly strong or convincing viewpoint, but the members of the group agree that it is worth listing the issue in the report nonetheless. * **Minority View** - refers to a proposal where a small number of people support the recommendation.  This can happen in response to a **Consensus**, **Strong support but significant opposition**, and **No Consensus;** or, it can happen in cases where there is neither support nor opposition to a suggestion made by a small number of individuals.   In cases of **Consensus**, **Strong support but significant opposition**, and **No Consensus**, the team will make every effort to document that variance in viewpoint and to present any **Minority View** recommendations that may have been made. Documentation of **Minority View** recommendations normally depends on text offered by the proponent(s). In all cases of **Divergence,** the WG Chair must encourage the submission of minority viewpoint(s).  The recommended method for discovering the consensus level designation on recommendations should work as follows:   1. After the group has discussed an issue long enough for all issues to have been raised, understood and discussed, the Chair, or Co-Chairs, make an evaluation of the designation and publish it for the group to review. 2. After the group has discussed the Chair's estimation of designation, the Chair, or Co-Chairs, should re-evaluate and publish an updated evaluation. 3. Steps (i) and (ii) should continue until the Chair/Co-Chairs make an evaluation that is accepted by the group. 4. In rare cases, a Chair may decide that the use of polls is reasonable. Some of the reasons for this might be:    * A decision needs to be made within a time frame that does not allow for the natural process of iteration and settling on a designation to occur.    * It becomes obvious after several iterations that it is impossible to arrive at a designation. This will happen most often when trying to discriminate between **Consensus** and **Strong support but Significant Opposition** or between **Strong support but Significant Opposition** and **Divergence.**   Care should be taken in using polls that they do not become votes. A liability with the use of polls is that, in situations where there is **Divergence** or **Strong Opposition**, there are often disagreements about the meanings of the poll questions or of the poll results.  Based upon the WG's needs, the Chair may direct that WG participants do not have to have their name explicitly associated with any Full Consensus or Consensus view/position. However, in all other cases and in those cases where a group member represents the minority viewpoint, their name must be explicitly linked, especially in those cases where polls where taken.  Consensus calls should always involve the entire Working Group and, for this reason, should take place on the designated mailing list to ensure that all Working Group members have the opportunity to fully participate in the consensus process. It is the role of the Chair to designate which level of consensus is reached and announce this designation to the Working Group. Member(s) of the Working Group should be able to challenge the designation of the Chair as part of the Working Group discussion. However, if disagreement persists, members of the WG may use the process set forth below to challenge the designation.  If several participants (see Note 1 below) in a WG disagree with the designation given to a position by the Chair or any other consensus call, they may follow these steps sequentially:   1. Send email to the Chair, copying the WG explaining why the decision is believed to be in error. 2. If the Chair still disagrees with the complainants, the Chair will forward the appeal to the CO liaison(s). The Chair must explain his or her reasoning in the response to the complainants and in the submission to the liaison. If the liaison(s) supports the Chair's position, the liaison(s) will provide their response to the complainants. The liaison(s) must explain their reasoning in the response. If the CO liaison disagrees with the Chair, the liaison will forward the appeal to the CO. Should the complainants disagree with the liaison support of the Chair’s determination, the complainants may appeal to the Chair of the CO or their designated representative. If the CO agrees with the complainants’ position, the CO should recommend remedial action to the Chair. 3. In the event of any appeal, the CO will attach a statement of the appeal to the WG and/or Board report. This statement should include all of the documentation from all steps in the appeals process and should include a statement from the CO (see Note 2 below).   Note 1:  Any Working Group member may raise an issue for reconsideration; however, a formal appeal will require that that a single member demonstrates a sufficient amount of support before a formal appeal process can be invoked. In those cases where a single Working Group member is seeking reconsideration, the member will advise the Chair and/or Liaison of their issue and the Chair and/or Liaison will work with the dissenting member to investigate the issue and to determine if there is sufficient support for the reconsideration to initial a formal appeal process.  Note 2:  It should be noted that ICANN also has other conflict resolution mechanisms available that could be considered in case any of the parties are dissatisfied with the outcome of this process. | | | | | |
| **General Communication/Status Reporting:** | | | | | |
| Routine and frequent communication regarding current status from the EPDP Team leadership to the Council and to the community will be provided at no less than a [monthly] frequency. Communication/status reporting may be provided in a variety of forms, including but not limited to, newsletters, publicly available webinars hosted by ICANN staff and EPDP Team leadership, participation by the public as observers in the EPDP, and/or public access to the EPDP Team’s mailing list and/or the GNSO Council's mailing list as observers. The EPDP Team is expected to communicate in a timely manner should there be any adjustment to the work plan and especially any delay that may have occurred in meeting the EPDP milestones. | | | | | |
| **Problem/Issue Escalation & Resolution Processes:** | | | | | |
| *{Note:  the following material was extracted from Sections 3.4, 3.5, and 3.7 of the Working Group Guidelines and may be modified by the Chartering Organization at its discretion}*    The WG will adhere to [ICANN’s Expected Standards of Behavior](http://www.icann.org/transparency/acct-trans-frameworks-principles-10jan08.pdf) as documented in Section F of the ICANN Accountability and Transparency Frameworks and Principles, January 2008.    If a WG member feels that these standards are being abused, the affected party should appeal first to the Chair and Liaison and, if unsatisfactorily resolved, to the Chair of the Chartering Organization or their designated representative. It is important to emphasize that expressed disagreement is not, by itself, grounds for allegations of abusive behavior. It should also be taken into account that as a result of cultural differences and language barriers, statements may appear disrespectful or inappropriate to some but are not necessarily intended as such.  However, it is expected that WG members make every effort to respect the principles outlined in ICANN’s Expected Standards of Behavior as referenced above.    The Chair, in consultation with the Chartering Organization liaison(s), is empowered to restrict the participation of someone who seriously disrupts the Working Group. Any such restriction will be reviewed by the Chartering Organization. Generally, the participant should first be warned privately, and then warned publicly before such a restriction is put into place. In extreme circumstances, this requirement may be bypassed.    Any WG member that believes that his/her contributions are being systematically ignored or discounted or wants to appeal a decision of the WG or CO should first discuss the circumstances with the WG Chair. In the event that the matter cannot be resolved satisfactorily, the WG member should request an opportunity to discuss the situation with the Chair of the Chartering Organization or their designated representative.    In addition, if any member of the WG is of the opinion that someone is not performing their role according to the criteria outlined in this Charter, the same appeals process may be invoked.  **Conflict Resolution**  Recognizing that the subject of this EPDP has been a matter of great debate and little resolution throughout the life of ICANN, the Council has determined that it would be useful to supplement the regular standards of behavior by providing the working group with the services of an independent dispute resolution practitioner, who can recognize blockages in consensus building that might be caused by stakeholders becoming intransigent with respect to their positions on issues.  The purpose of this professional intervention, is to assist the working group in reaching consensus positions, not in handling behavior issues. | | | | | |
| **Closure & Working Group Self-Assessment:** | | | | | |
| The EPDP Team will close upon the delivery of the Final Report, unless assigned additional tasks or follow-up by the GNSO Council. | | | | | |
| **Section V: Charter Document History** | | | | | |
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