

# Report of Public Comments

<b>Title:</b>		<b>GNSO Structures Charter Amendment Process</b>	
<b>Publication Date:</b>		25 September 2013	
<b>Prepared By:</b>		Robert Hoggarth, Sr. Director – Policy Development	
<b>Comment Period:</b>		<b>Important Information Links</b>	
Comment Open Date:	22 June 2013	<a href="#">Announcement</a>	
Comment Close Date:	28 August 2013	<a href="#">Public Comment Box</a>	
Reply Close Date:	18 September 2013	<a href="#">View Comments Submitted</a>	
Time (UTC):	23:59	Report of Public Comments	
<b>Staff Contact:</b>	Robert Hoggarth	<b>Email:</b>	<a href="mailto:policy-staff@icann.org">policy-staff@icann.org</a>
<b>Section I: General Overview and Next Steps</b>			
<p>The purpose of this Public Comment Forum has been to solicit community feedback concerning a formalized process, proposed by the Board's Structural Improvements Committee (SIC), for amending GNSO Stakeholder Group and Constituency Charters.</p> <p>The ICANN Bylaws (Article X, Section 5.3) state, "Each [GNSO] Stakeholder Group ... and each of its associated Constituencies shall maintain recognition with the ICANN Board." During this time of significant organizational changes within ICANN and its GNSO community, the SIC determined that it is important that Stakeholder Groups and Constituencies have the flexibility to update, modify and evolve their charters so that those governing documents remain accurate and viable.</p> <p>There is currently no formalized procedure for a GNSO Stakeholder Group or Constituency to request recognition by the ICANN Board of Directors for a charter amendment. To address this procedural gap, the SIC formulated a process (see <a href="http://www.icann.org/en/news/public-comment/structures-charter-22jun13-en.htm">http://www.icann.org/en/news/public-comment/structures-charter-22jun13-en.htm</a>) that is intended to accommodate the periodic need to amend charter documents consistent with the ICANN Bylaws requirement for formal validation by the Board.</p> <p>Having received community feedback pursuant to this solicitation, the SIC is reviewing those suggestions and will determine if any substantive changes to the proposed procedure are advisable. The proposal is currently scheduled to be discussed/reviewed by the SIC and subsequently by the ICANN Board later this month (September 2013)(see - <a href="http://www.icann.org/en/groups/board/documents/agenda-28sep13-en.htm">http://www.icann.org/en/groups/board/documents/agenda-28sep13-en.htm</a>).</p>			
<b>Section II: Contributors</b>			
<p><i>At the time this report was prepared, a total of 2 community submissions had been posted to the Forum. The contributors, an individuals and an organization/group, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.</i></p>			

Organizations and Groups:

Name	Submitted by	Initials
<i>GNSO Intellectual Property Constituency</i>	Steven Metalitz	IPC

Individuals:

Name	Affiliation (if provided)	Initials
Edward Morris		EM

**Section III: Summary of Comments**

*General Disclaimer: This section is intended to broadly and comprehensively summarize the comments submitted to this Forum, but not to address every specific position stated by each contributor. Staff recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).*

The IPC identified several targeted improvements to the proposed SIC process.

Regarding Phase I of the proposed process, the IPC stated that the requirement that GNSO Stakeholder Groups (SGs) and Constituencies notify Policy staff upon initiation of efforts to formulate charter amendments is “both unclear and difficult to enforce, since different groups will have different procedures for formulating and considering such amendments.” The IPC said the same goal could perhaps be achieved by simply encouraging SGs and Constituencies to consult with Policy staff “as early as feasible” in the amendment process.

Commenting on Phase IV of the proposed process, the IPC said the two options provided for Board action leave open the question of the fate of a proposed charter amendment that enjoys support of less than a majority of the Board but is not opposed by 2/3 of the Board. The IPC said that was a matter that needed clarification. The IPC suggested that charter amendments be approved unless rejected by a 2/3 Board majority (in which case, a specific rationale must be provided for the rejection).

Also regarding Phase IV of the proposed process, the IPC noted the prospect that “a proposed charter amendment might languish before the Board indefinitely is troubling and could leave stakeholder groups/constituencies in limbo and impair their functioning.” The IPC suggests that such amendments be deemed approved if the board has taken no formal action upon them after a stated number of meetings (perhaps 4-6).

EM noted his agreement with the general tone and substance of the IPC recommendations. He expressed concern that, because some communities have a number of different charter amendment processes, less experienced community members could be disadvantaged. He favored the “less specific ‘encouragement’ notice standard proposed by the IPC for notifying ICANN Staff of potential

charter amendment efforts.

EM also shared the IPC perspective that the decision to amend community charter provisions should be given deference and only rejected by a 2/3 vote of the ICANN Board. He agreed that Board action should be taken “within a certain defined time frame” to prevent delay caused by lack of Board action on any proposed charter changes. EM also favored eliminating the potential “black hole” between 50% Board approval and a potential 2/3 rejection vote.

#### **Section IV: Analysis of Comments**

*General Disclaimer: This section is intended to provide an analysis and evaluation of the comments received along with explanations regarding the basis for any recommendations provided within the analysis.*

The community comments appear to address three key areas; (1) the SIC’s proposal that Staff be notified of prospective amendment efforts early in the community process; (2) the need to tighten the proposed process to ensure that Board review happens in a timely manner and that all process eventualities are covered and (3) that the Board accord deference to community decisions about changes to their chartering documents.

Staff has reviewed the submitted comments and made several suggestions for refinements consistent with the Community recommendations. Those will be reviewed by the SIC prior to Board action on the proposed process.

As noted above, the proposal is currently scheduled to be discussed/reviewed by the SIC and subsequently by the ICANN Board this month (September 2013)(see <http://www.icann.org/en/groups/board/documents/agenda-28sep13-en.htm>).