The ICANN GNSO "Business Constituency"

Comments on
Draft report of the Strategy Panel "The quest for a 21st Century ICANN"

Business Constituency Submission

GNSO//CSG//BC

Background

This document is the response of the ICANN Business Constituency (BC). The BC's comments arise from the perspective of Business users and registrants, as defined in our Charter[1]:

> The mission of the Business Constituency is to ensure that ICANN policy positions are consistent with the development of an Internet that:
> 1. promotes end-user confidence because it is a safe place to conduct business
> 2. is competitive in the supply of registry and registrar and related services
> 3. is technically stable, secure and reliable.

On 25 February 2014, the ICANN Multistakeholder Innovation Strategy Panel published its Draft Recommendations and it was posted for public comment.

BC General Comment

The BC greatly appreciates the efforts of the ICANN Multistakeholder Innovation Strategy Panel.

The BC agrees in principle that there is merit in "adopting an evolutionary approach that embraces targeted experimentation and empirical evidence".

Still, we wish to highlight that while some great innovative ideas were rendered in this report, we believe that "experimenting" with some of these ideas requires a deep understanding of the ICANN community as is. We cannot afford to implement any of these ideas if this is done with not enough understanding on how we are getting our work done at ICANN, and the time and resources that we need to get our core jobs done. We expect that any implementation of these ideas or others will be done with a very deep understanding of where we are today.

In the sense that we would need to consider experimentation only in those areas in which there is:

1. An agreement that the way things are done today is not adequate and needs to be improved
2. An agreement that the way things are done today can improve significantly by the experiment

In sum, we believe that the ability to absorb these ideas, evaluate them, and implement those that really meet the needs of the organization will present a great challenge for the community, particularly at these times of transition. That is why BC members would rather avoid experimenting when there is not a real need or a significant incentive to do so, and to limit experimentation to those imperative situations in which change is needed and preferred by the community the experiment is deemed to serve.

Finally, when we consider experimentation, we expect experiments to be agile and cost effective, using lean methodology to run them if applicable. In this sense, we strongly agree with the report when it

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[1] Business Constituency Charter, at http://www.bizconst.org/charter.htm.

states that it is important to let the experiments to be done "run long enough to gather data about what works" in order to learn from the experiments and move to the next face, either by reformulating them or implementing them.

1. The 3 Key Principles and the 16 proposals

The report organizes the information in 3 Key principles in which 16 recommendations are offered, each related to one of the 2 key principles.

1.1. Key Principles

The report opens by identifying three key principles that characterize the best "21st century organizations". In the light of the report, 21st organizations are those which are:

- Effective;
- Legitimate; and,
- Evolving."

Whilst the three are no doubt legitimate principles, these are clearly not the only characteristics of successful modern organizations and we are not sure it is necessary to single out these three other than to give a structure to the mixed recommendations.

1.2. The Proposals

As mentioned above, the report identifies some proposals related to each of the 3 key principles. We had mixed views on the 16 proposals as detailed below.

<u>**Towards Effectiveness**</u>

Under the umbrella of the "effectiveness" principle, the report identifies 3 proposals analyzed below.

In general the BC supports the goal of a more effective ICANN and supports the three recommendations that are aimed at this goal, with some concerns to be considered.

Use Expert Networks

The BC agrees in general terms with the proposal to use of expert networks.

Still, we consider it appropriate to balance the use of expert networks with the oft-stated goal to bring more relevant and diverse voices into the discussion. In that sense we would like to suggest using the best/most qualified expert networks from both in and outside the traditional ICANN and IG communities, while continuing awareness and outreach efforts to bring relevant and diverse voices to the community and help those newcomers acquire the information, knowledge, capacity they need to undertake valuable roles in the community.

Moreover, we would like to point out that we certainly agree with some of the concepts associated with this recommendation such as "the use of expertise to solve new and complex problems", the notion of "increasing diversity, reducing redundant participation", and "inspiring and incentivizing collaboration within and across solid ICANN structures".

Nevertheless, we read with some concern concepts such as to "Move ICANN from a representation-based to expertise-based organization" as we believe ICANN´s legitimacy comes from the representation of their membership.

We would also like to express our concerns regarding some comments in the report such as considering the PDP as a "slow-moving policy development processes", that needs to be fixed in terms of speed, regardless of the outcome of doing so. In this respect, we note that ICANN's multistakeholder model is not necessarily a fast way of policy development. Still, the PDP and recommendations, reports and decisions that are taken through these mechanisms are an essential element of the multistakeholder bottom-up consensus-based model that we consider worthy of the time and the effort it requires. Of course, we are in favor of improving these mechanisms, and welcome the implementation of ideas in this regard, but not by favoring speed over the legitimacy and value of a community process.

Embrace Open Data and Open Contracting

The BC strongly supports embracing open data and open contracting. The BC agrees that "ICANN should make all of its data in all sources, including registry and registrar contracts, freely available and downloadable online in machine readable usable and structured format". The BC also encourages ICANN to do this in a timely manner, to facilitate multi-lingual and multi-jurisdictional access.

The BC agrees that "ICANN should foster the creation of an ecosystem that is increasingly accessible, using apps and models to promote public understanding. In particular the BC supports the creation (by ICANN Labs) of an Acronym Helper App and the unification of the three current data sets.

As for open contract data, the BC agrees that "this could increase and diversify opportunities in monitoring for contractual compliance".

The BC suggests that ICANN experiment with an open procurement platform, given the paucity of procurement information currently available on the ICANN website (the number of procurement contracts published on the ICANN website in the last 18 months is only two -link-).

Enable Collaborative Drafting

The BC strongly supports research to enable collaborative drafting. We note that there is often a debate whenever it is suggested that ICANN use free third party tools such as Google Docs or Google Moderator as opposed to Open Source, licensed software, or its own procured code. This debate needs to be resolved and a policy developed.

The BC Believes that ICANN should study document management systems and Staff and Community should be able to use (and be educated on) consistent document naming conventions for both draft and published documents.

<u>**Toward Legitimacy**</u>

Under the umbrella of "Legitimacy" , the report identifies nine proposals analyzed below.

Crowdsourcing Each Stage of Decision Making

The BC does not support the proposal around "Crowdsourcing Each Stage of Decision making", because it would subject existing stakeholder groups (like the BC) to an experiment using a parallel process. The BC believes strongly that crowdsourcing, while potentially valuable, should not be used as a replacement for the existing constituency structure.

Importantly, the BC wishes to make clear that its members are in no way against using new techniques to foster greater global involvement in ICANN's work, especially if this leads to greater informed participation in various working groups and projects. That said, like other members of the ICANN community, the BC wishes to avoid any processes which could lead to emotional – but uninformed – calls for action. We acknowledge the need to increase *both* the level of participation and the knowledge of new participants, avoiding the creation of a "global cybermob" reacting to hot topic issues.

Incidentally 'Google Moderator' as a tool is mentioned. See note about software tools under Enable Collaborative Drafting above.

Move from "Stakeholder" Engagement to Global Engagement

BC position is as 4 above. BC does not support the pessimistic view of Elliot Noss cited by the report when he states "ICANN has largely failed in its goals of broad involvement…" Our view, instead, is that broad involvement has been growing, and that awareness, participation, and engagement of participants at ICANN is an ongoing effort that needs to keep evolving and maturing.

In this sense, the BC supports the aims of ICANN's Global Stakeholder Engagement division and believes it should channel outreach more through the constituency structures not less, and also provide resources directly to the constituencies in order for them to be able to support their local members in their own contexts to help with awareness, outreach and participation goals.

Impose Rotating Term Limits

Term limits are already imposed on certain positions such as GNSO Councilor. The BC supports a review of the rationale and the consistency of term limits across all ICANN structures.

Experiment with Innovative Voting Techniques

The BC supports in principle the idea of experimenting with different voting methods for decision-making. We also support comments made by others during the Singapore meeting, that instead of experimenting with these voting techniques in any given scenario, we would rather choose to experiment in those cases where there is a deadlock, in order to try new techniques that will help the community solve concrete problems that it faces.

Innovate the ICANN Public Forum

Like many others in the ICANN community, the BC is concerned by the continued low level of remote participation. This 'problem' has been discussed many times at ICANN meetings over the last few years but no advances appear to have been made. Whilst we are not convinced that remote participation will ever become a viable option for full participation in ICANN's work, the BC supports continued work to improve the quality, availability and increase the use of remote participation.

Establish "Citizen" Juries

The BC believes that this recommendation, in the way it is offered, parallels the work of the Ombudsman. Further study would be needed on the shortcomings (if any) of the Ombudsman system before advancing this recommendation.

Also, the BC suggests that instead of replacing the Ombudsman with "citizen" juries, it might be more interesting to offer innovative tools to the Ombudsman to solve specific issues that need the input of experts/users/members/participants of the community. Thus, if "citizen" participation is experimented through this proposal, we would like to run "citizen" expert panels randomly chosen from the community to assist the Ombudsman's work in specific issues.

Also, we would rather call this proposal "Experiment with community juries" rather than "Establish "citizen" juries". We would rather run this as an experiment, and we would suggest the word "community" juries instead of "citizen" juries, as "citizens" is not a word by which we identify ourselves in the ICANN community.

Crowdsource Oversight and Develop Standards to Measure Success

While (as noted above) there may be a place for the use of crowdsourcing and other new approaches to oversight, the BC position is to start with – and rely on – metrics and data as the cornerstone of informed oversight. This includes measuring the effects of ICANN policy decisions on the wider community of internet users. We think that 'crowdsource oversight' is a misleading term in this area.

Decentralize Accountability

BC members believe this proposal, which involves actions such as: "Mapping the Internet governance ecosystem", finding "principles for Internet governance", and "Identifying roles and responsibilities of existing actors and pertaining to existing issues to reveal where more coordination is needed" is work that should not be done by ICANN in isolation. Rather, we suggest this kind of activity is more suitable for working together with the other Internet Governance Ecosystem Organizations.

Use Participatory Budgeting

The BC supports further openness and community consultation in Budget decisions and will continue to take an active role in the Community Finance sessions and development of the annual budget. The specific example given in the recommendations is supported and was discussed at the Buenos Aires public forum. The BC hopes community dialog will continue on this issue.

Toward Evolutionary

Under the umbrella of the "Evolutionary" principle, the report identifies 4 proposals analyzed below.

Be Experimental

The BC supports the agile approach, the use of the lean methodology, and the concept of pilot projects as long as there is adequate monitoring, collection of data, review ,and meaningful feedback. Also, in an implementation/experimentation scenario, the BC strongly supports cost-effective implementation/experimentation of any of these proposals.

Generate New Insights and Evidence

The recommendation appears to call for "serious research on distributed governance structures and identification of the topics and functions that can be regulated at a supranational level."   The BC would need to study this topic in greater detail, with examples, in order to comment meaningfully.

Embrace Evidence

The BC believes that it is essential to work with metrics and data where available and supports the collection of data. Whether this extends to setting up a R&D department, the BC is undecided.

Encourage Games

The BC believes there is merit in the recommendation, though the terminology "encouraging games" may not adequately convey the importance of the desired outcomes. For clarity purposes, the BC takes this term to reflect the kind of 'grand challenge' contests used to solve global problems.

At a simpler level, and in order to encourage participation in working groups, a certificate signed by the Chair could be an encouragement to newcomers. Much of the hard work of ICANN volunteers goes unrecognized, and additional efforts to recognize the efforts – especially those of new participants – could be valuable.

In this sense, it was noted that the voting of ideas from phase one of this panels work, that was encompassed into the Ideascale software was well received by those taking part.

Gabriela Szlak, Chris Chaplow and Andrew Mack led drafting of these comments. These comments were approved in accordance with the BC Charter.