

# Report of Public Comments

| <b>Title:</b>   |                                    | <b>Registry Stakeholder Group Charter Revisions (Sep 2012)</b> |                                      |      |                           |          |                       |                                    |     |  |  |  |
|---|------------------------------------|--|--------------------------------------|------|---------------------------|----------|-----------------------|------------------------------------|-----|--|--|--|
| <b>Publication Date:</b>  |                                    | 19 December 2012   |                                      |      |                           |          |                       |                                    |     |  |  |  |
| <b>Prepared By:</b>   |                                    | Robert Hoggarth, Sr. Director-Policy Development               |                                      |      |                           |          |                       |                                    |     |  |  |  |
| <b>Comment Period:</b>  |                                    | <b>Important Information Links</b>                             |                                      |      |                           |          |                       |                                    |     |  |  |  |
| Comment Open Date:  | 11 October 2012                    | <a href="#">Announcement</a>                                   |                                      |      |                           |          |                       |                                    |     |  |  |  |
| Comment Close Date:   | 5 November 2012                    | <a href="#">Public Comment Box</a>                             |                                      |      |                           |          |                       |                                    |     |  |  |  |
| Reply Close Date:   | 27 November 2012                   | <a href="#">View Comments Submitted</a>                        |                                      |      |                           |          |                       |                                    |     |  |  |  |
| Time (UTC):   | 23:59                              | Report of Public Comments                                      |                                      |      |                           |          |                       |                                    |     |  |  |  |
| <b>Staff Contact:</b>   |                                    | Robert Hoggarth  | <b>Email:</b> policy-staff@icann.org |      |                           |          |                       |                                    |     |  |  |  |
| <b>Section I: General Overview and Next Steps</b>   |                                    |  |                                      |      |                           |          |                       |                                    |     |  |  |  |
| <p>In September 2012, the GNSO's Registry Stakeholder Group (RySG) alerted ICANN Staff to a number of revisions made to its Charter. The ICANN Bylaws provide that "each GNSO Stakeholder Group ... and each of its associated Constituencies shall maintain recognition with the ICANN Board." To assist with its analysis, on 3 October 2012, the ICANN Board directed Staff to open a Public Comment Forum to solicit community input concerning the RySG Charter amendments.</p> <p>The Public Comment reply period closed on 27 November 2012 and Staff has prepared this summary of the community's input. This report will be forwarded to the Structural Improvements Committee (SIC), which will provide a recommendation to the Board concerning the Charter amendments. This report will also be published for the community's review at the above link (see Important Information Links).</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, both individuals and organizations/groups, 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>   |                                    |  |                                      |      |                           |          |                       |                                    |     |  |  |  |
| <b>Organizations and Groups:</b>  |                                    |  |                                      |      |                           |          |                       |                                    |     |  |  |  |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Name</th> <th style="width: 30%;">Submitted by</th> <th style="width: 20%;">Initials</th> </tr> </thead> <tbody> <tr> <td>ARI Registry Services</td> <td>Donna Austin</td> <td>ARI</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>   |                                    |  |                                      | Name | Submitted by              | Initials | ARI Registry Services | Donna Austin                       | ARI |  |  |  |
| Name  | Submitted by                       | Initials   |                                      |      |                           |          |                       |                                    |     |  |  |  |
| ARI Registry Services   | Donna Austin                       | ARI  |                                      |      |                           |          |                       |                                    |     |  |  |  |
|   |                                    |  |                                      |      |                           |          |                       |                                    |     |  |  |  |
| <b>Individuals:</b>   |                                    |  |                                      |      |                           |          |                       |                                    |     |  |  |  |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Name</th> <th style="width: 30%;">Affiliation (if provided)</th> <th style="width: 20%;">Initials</th> </tr> </thead> <tbody> <tr> <td>Avri Doria</td> <td>Ex-Chair: NCSG Executive Committee</td> <td>AD</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>  |                                    |  |                                      | Name | Affiliation (if provided) | Initials | Avri Doria            | Ex-Chair: NCSG Executive Committee | AD  |  |  |  |
| Name  | Affiliation (if provided)          | Initials   |                                      |      |                           |          |                       |                                    |     |  |  |  |
| Avri Doria  | Ex-Chair: NCSG Executive Committee | AD   |                                      |      |                           |          |                       |                                    |     |  |  |  |
|   |                                    |  |                                      |      |                           |          |                       |                                    |     |  |  |  |

## 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).*

For this Summary of Comments, the community's feedback is divided into: **Issue 1** – pertaining directly to the RySG's specific Charter changes; and **Issue 2** – outlining respondents' supplementary concerns.

The Charter changes can be summarized as follows and will be referenced by number in the ensuing discussion:

1. A new provision to formally recognize the formation of "Observer Interest Groups" within the RySG. Among provisions concerning membership, voting rights (none), notification, etc., "Each Observer Interest Group shall have the rights and responsibilities related to development and issuance of policy and position statements."
2. In determining a RySG member's weighted voting tier (based on ICANN fees), a clarification was added that both "registrations and fees are aggregated to include all TLDs represented by the member."
3. In lieu of a permanent fixed membership fee schedule (deleted), the Charter language was changed to read that fees will be assessed based upon "a budget adopted by vote of the RySG no less frequently than on an annual basis."
4. Addition of immediate past RySG Chair as a non-voting member of the Executive Committee.
5. Minor formatting, numbering, and date modifications pursuant to the above changes.

### Issue 1: RySG Charter Amendments

ARI "welcomes the amendments to the Charter that will allow, among other things, for the creation Observer Interest Groups." ARI believes that "this will provide a valuable mechanism for RySG Observers to initiate discussion and coalesce around areas of common interest." ARI further notes that this inclusion "in large part replicates clause D of the Charter allowing for the creation of interest groups among RySG members."

AD, speaking as a former Chair of the Non-Commercial Stakeholder Group (NCSG), comments that the RySG "should be allowed" to modify their Charter as presented.

Neither of the two respondents commented specifically about changes 2, 3, 4, or 5 above.

### Issue 2: Supplementary Concerns

*Consistent Charter Provisions Among GNSO Stakeholder Groups*

AD notes that, “When the NCSG attempted to modify its charter to include Interest Groups, very much in the manner that has been proposed by the RySG, we were rebuffed by the Board and forced to negotiate a very complicated procedure for creating hardened Constituencies within the Stakeholder Group.” AD clearly supports the RySG’s right to change its Charter as it deems appropriate, without “a complicated system of Board oversight,” “Just as I think we should have been allowed to do.” AD concludes by affirming, “More than anything I want equal treatment for all Stakeholder Groups.”

#### Representation for “Back-End Registry Service Providers” (RSPs)

While generally supporting the RySG’s Charter amendments, ARI expresses concern about “an apparent anomaly in the current GNSO structure, which does not provide potential new entrants to the ICANN community with equal representation in the GNSO ... through membership and voting rights.” After investigating each of the GNSO Stakeholder Group Charters, ARI notes that the manner in which they are drawn excludes RSPs, such as ARI, from becoming full members in any of them.

ARI suggests that “the RySG would appear to be the obvious place for RSPs to participate in the GNSO” because that SG uniquely represents the interests of gTLD registry operators. While the latest RySG Charter amendments now promote “observer” status for entities such as RSPs, ARI is concerned that, by being denied full membership rights (e.g., voting, elections), RSPs “could be excluded from participating in technical consensus policy discussions in which they, alongside the existing contracted registry operators, are able to share their direct expertise as it relates to interoperability, technical reliability and stable operation of the Internet and the domain name system.”

ARI offers two possible solutions:

- Amend the RySG Charter to accommodate RSPs as full members; or
- Change the CSG Charter to remove the exclusion of Registries from membership or eligibility to create a new Constituency.

ARI recognizes that “debate will be necessary,” welcomes discussion, and alerts the ICANN community that “this anomaly may be wider spread than represented in our comments.”

ARI emphasizes that the important principle is “ensuring that ... there is flexibility within the current structure to allow [*new*] groups to contribute to important discussions on equal footing and thereby ensuring the success of the ICANN multi-stakeholder model.”

#### **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.*

This Analysis of Comments is separated into **Topic 1** - RySG Charter Amendments and **Topic 2** - Supplementary Concerns.

## **Topic 1: RySG Charter Amendments**

Both commenters support the RySG Charter amendments as noted in Section III of this report.

## **Topic 2: Supplementary Concerns**

Although not directly related to the purpose of the Public Comment covered in Topic 1, the ICANN community may wish to pursue the issues noted by the commenters in Section III above.

### *Different SGs Charter Provisions*

The permanent charters of the GNSO's four Stakeholder Groups were approved by the Board at different times (almost two years apart) and under different circumstances.

AD is accurate in stating that the RySG Charter (approved by the Board in 2009 – see [ICANN Board Resolution 2009.30.07.09](#)) provides for the creation of Interest Groups and the NCSG Charter (approved by the Board in 2011 – see [ICANN Board Resolution 2011.06.24.07](#)) does not – providing instead for the development of more formal Constituency groups.

Although not the subject of the particular charter matter being considered at this time, the Board may wish to consider whether the particular rationales for different Charter provisions among the GNSO Stakeholder Groups remains valid in the current GNSO environment. Although individual charter provisions of each Stakeholder Group can be examined by the Board at any time, a comparison and evaluation of various structural and operational charter provisions is probably best taken up in the context of the next independent review of the GNSO (see <http://www.icann.org/en/groups/reviews>), which is likely to be initiated in 2013.

### *Participation by “Back-End Registry Service Providers” (RSPs)*

The Board may wish to consider whether the RSPs, as a group of potentially unique and interested participants within the ICANN community, can be accorded a formal stature within the GNSO and, if so, in what form or in which Stakeholder Group. The RySG Observer Interest Group capability, the New Constituency Recognition process (see - <http://newgnso.icann.org/en/about/form-new-constituency.htm>) and the upcoming independent organizational review of the GNSO may provide avenues for community discussion and Board consideration of that matter.