

**GNSO  
Operations Steering Committee (OSC) GNSO Council Operations Work Team  
19 May 2010 at 17:00 UTC**

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Participants on the Call:

Ray Fasset – Registries  
Wolf Ulrich Knoben – ISPC  
Avri Doria – NCSG – vice chair  
Ron Andruff - CBUC

Staff:

Ken Bour  
Julie Hedlund  
Glen de Saint Gery  
Gisella Gruber-White

Apologies:

Rob Hoggarth

Coordinator: Excuse me, this is the Operator. I need to inform all participants that today's conference call is being recorded, if you have any objections you may disconnect at this time. I would like to introduce your host, we have Miss Gisella Gruber-White. Ma'am, you may begin.

Gisella Gruber-White: Would you like me to do a quick role call?

Ray Fassett: Yes please.

Julie Hedlund: Yeah, sure Gisella, that would be lovely.

Gisella Gruber-White: Good morning, good afternoon to everyone. On today's call we have Avri Doria, Wolf Knoben, Ron Andruff, Ray Fassett. From staff we have Glen de Saint Géry, Julie Hedlund, Ken Bauer and myself, Gisella Gruber-White. We have apologies from Rob Hogarth. If I could also remind everyone to state their names when speaking for transcript purposes. Thank you, over to you Ray.

Ray Fassett: Thank you very much and welcome everybody. So this is the meeting of the GCOT. This could be potentially our last substantive meeting on issues here. We have a deadline of June 1 at the latest to get our various tasks over to the OSC for their review.

Our actual objective is to accomplish that within the next few working days at the latest based on the results of our discussions today. So with that said I think the two main areas of discussion today involve Section 3.8 - and these are of course with regards to the Rules of Procedure, or also what I'm seeing now referenced as well is GOP which I assume stands for GNSO Operating Procedures.

Gisella Gruber-White: Ray, Julie's just disconnected.

Ray Fassett: Okay.

Gisella Gruber-White: So she's hearing what you're saying but you can go on.

Ray Fassett: Great thank you. So Section 3.8 which is absences. There's some work for us to do there. And the other has to do with Chapter 4, the voting. So with that said I'll recommend that we start with 3.8 unless someone would rather go right to Chapter 4.

Not hearing anything. First of all let me just open it up for general discussion or questions that anybody may have. Obviously Ken has sent some substantive work our way to review, certain documents. I think it's pretty clear

how, you know, what the intentions are but also explanatory notes were included in a few of his emails. So let me just open it up for any discussion. Is there anything that anyone wants to bring up with regards to Section 3.8 or Chapter 4?

Julie Hedlund: And Ray, I'm sorry, this is Julie. I inadvertently dropped off and I'm back on. Thanks.

Ray Fassett: Sure. So, Wolf, Ron, Avri, anything or do we want to just go straight to 3.8 and see where we're at?

Ron Andruff: This is Ron. I would go straight to the document, Chair, unless Avri has any thoughts because I think it was Avri's comments that precipitated these amendments.

Wolf Ulrich-Knoben: Yes I agree, it's Wolf.

Ray Fassett: Okay.

Avri Doria: Apologies.

Ray Fassett: Okay so let's go right into 3.8. And if everybody has it open we can see what the proposed changes are. So I had a question under 3.8.1. v.1 where it's been deleted that the clarification that such action will not reduce the denominator in any vote. What was the logic behind taking out that clarification?

Ken Bauer: This is Ken. Excuse me, on the - just give me a second here to catch up.

Ray Fassett: Yeah.

Ken Bauer: I think it - it isn't needed there, Ray, I think is the - is where I sort of came out. In other words if you have an unplanned absence - well and we've stated that

in other places in the document that anything that is not a yes - the denominator never changes.

Ray Fassett: Okay.

Ken Bauer: And let me just see, you know what, look at 3.8.5.

Ray Fassett: Okay.

Ken Bauer: I think I included it there instead so it wasn't duplicated.

Ray Fassett: Okay well that's all right because I read that one a few times myself and I didn't - it didn't strike me as to what that was about. I'm going to read it - yeah, this is new 3.8.5, this is a new addition.

Any occurrence of absence or vacancy that is not declared in advance to result in an abstention from voting as provided in this section will be recorded as absent and such action will not reduce the denominator in any vote tabulation for the affected house.

Actually I understand what that says now.

Ken Bauer: Good. So that's the reason I removed it from up above because I put it at the bottom to cover any case of unplanned nonattendance.

Ray Fassett: Okay so any occurrence of absence or vacancy that is not declared in advance - I wonder if you can just put a comma right after the word advance and take out to result in an abstention from voting. I think that - I know what you're doing there you want to clarify that there is a remedy. But I'm wondering just if it makes this section easier to understand if you just put a comma right after 'in advance.'

Avri Doria: Can I recommend a different perhaps...

Ray Fassett: Yeah.

((Crosstalk))

Avri Doria: ...correction?

Ray Fassett: Yeah, yeah, yeah please.

Avri Doria: Right so anyhow I might think that any occurrence of an absence or a vacancy - and putting in an article might help - that is not declared in advance. And then I would change the dependant clause there as opposed to result in abstention which - from voting but something like which would result in an abstention in voting as discussed in Section blah, you know, or as provided in the section and then go on as it was so basically making it a more dependent clause.

You put the comma in when you were reading it and that's why you were able to parse the sentence. But without a break there - and putting a comma and then just to result the phrase doesn't quite stand correctly for reading and - but, you know, that's kind of my recommended rewrite.

Ray Fassett: Yeah, so I think we are word-smithing a little here.

Avri Doria: Yeah.

Ray Fassett: Does anybody disagree with the intent?

Ron Andruff: No.

Ray Fassett: Okay. So I think we're in a wordsmith mode here.

Ken Bauer: Yeah, this is Ken. I'm wondering - I was sort of - I've been reading it back and forth myself trying to fix it. I agree that it's not - it's awkward. I'm just wondering if we actually need the - that clause - in fact I just - I don't have this on - when I made the change and then I delete something it doesn't show up as a draft change.

I'm going to have to accept it and then change it.

Avri Doria: Yeah, no you don't.

Ken Bauer: I don't?

Avri Doria: You don't need the clause. I mean, it's...

Ken Bauer: Yeah, I'm going to read it without the, 'to result' part. Any occurrence of absence or vacancy that is not declared in advance as provided in this section will be recorded as absent. Yeah, I don't think, to would result in an abstention from voting is needed there.

Avri Doria: Yeah, and I guess that's what Ray was suggesting on the first part.

Ken Bauer: I think so, yeah. Are you okay with that Avri if we just take that part out...

Avri Doria: Yeah.

((Crosstalk))

Ken Bauer: All right then I'm going to go ahead and accept that change.

Ray Fassett: Okay so I think with that...

((Crosstalk))

Wolf Ulrich-Knoben: Ray, it's Wolf speaking. Could it just repeat the clean text - the clean phrase?

Ken Bauer: This is Ken, be happy to. 3.85 now reads any occurrence of absence or vacancy that is not declared in advance as provided in this section will be recorded as absent and such action will not reduce the denominator (unintelligible).

Wolf Ulrich-Knoben: Okay yeah.

Ken Bauer: No, I owe an apology to the team and to Avri in particular, because I just sent an email to this effect but no one's probably seen it yet.

Avri Doria: I saw it.

Ken Bauer: Yeah. When I saw, Avri, your note that said thanks for the quick response. I thought that was it. I didn't look any further in the document to see that there were other things added so...

((Crosstalk))

Ken Bauer: I completely missed all of that. Fortunately most of it was okay and not - but the part about the NCA I didn't get and therefore I went ahead with what I thought was the original. So - and that's going to apply here in this section. If you look just north of...

((Crosstalk))

Ken Bauer: ...yeah, north of 3.8.5 in that 3.8.4c I took out subject to applicable remedies. Now so maybe we should have some discussion - well maybe we could see if everything else is okay in this section then maybe it's time to talk about the NCA issue.

Ray Fassett: Okay so let me just clarify for me and for anyone who might listen. So this issue is - does pertain to Section 3.8, absences, and specifically 3.8.4c.

Ken Bauer: It could. I think that's part of the larger discussion. I think what we want - what we might want to try to do here is to take - just think a little bit about the NCA positions and what possible remedies we want to apply under different circumstances, for example, abstention, vacancy, absence, term limits - I mean, not term limits, leave of absence - any of those things that we've currently identified where remedies might apply.

We have basically extracted them all away at this point from applicability to the NCA position. And that wasn't necessarily what Avri had in mind so...

Avri Doria: Yeah.

Ken Bauer: ...and it may not have been what the team had in mind. I just - I thought that's where the direction we might be heading so I pushed it in that direction. But we can back up from there for sure; all the changes can be undone.

Ray Fassett: Of course. So - okay so at a high level there's definitely validity to the point Avri raised which was really a good point which is, you know, the houses aren't themselves entities to be creating procedures or policies or - like I said that's not their intent. And we all agree with that, right?

Wolf Ulrich-Knoben: Agreed.

Ray Fassett: Okay so now taking the next step each house is provided NCA right. So each house considers they have an NCA. And I know there was some discussion on how NCAs get assigned. I think we need a little education on that. How are NCAs assigned to a given house?

Avri Doria: That's actually a really good question. This is Avri. And I'm not actually sure how that's going to work out because while it was worked out specifically last



time because they had already been, you know, generally assigned by the nom-com and the nom-com wasn't willing to go back and say I have to assign one to this house and one to that house they basically said sorry, you know, figure out some other schemes, don't leave it up to us.

Now my assumptions, though I do not know this, was that the GNSO was going to ask the nom-coms this time to pick its assignments of NCAs per house. I do not know and perhaps someone will have to check with nom-com on this - whether they could juggle them about or they were only going to fill the vacancy let's say, for example, this time it is the - both of the house ones are actually up for renewal I believe.

No, only one of them, only the one in the contracted parties is up for renewal this time. And so the - I don't know whether the nom-com is going to say okay a new contracted party NCA is or whether the nom-com is going to say okay well we are moving, you know, the homeless one to the contracted party house and moving the non-contracted party house to be homeless and putting the new one in such or whether they're just going to fulfill it.

But at the moment I believe nom-com is going to do the choosing by some method.

Ray Fassett: And that kind...

Avri Doria: And I don't know if anybody has staff has more opinion - more information to add than that.

Ken Bauer: This is Ken. I am - no, I do not. I know we initially wanted - we asked or were intending to ask the nominating committee to make the assignments. That obviously wasn't done the first time around. Whether - I am going to follow up on that.

Avri Doria: Olof would be the one to know for sure as he's the mentor to the nom-com I believe or is he not? No. I forget who the mentor is for the nom-com. I think it's Olof but I'm not positive.

Ray Fassett: That might be a little bit of useful information for us. So the plan is for the nom-com to assign to a specific house; that is the plan?

Avri Doria: That was certainly the GNSO's request.

Ray Fassett: Oh that's even better. That's even better.

Avri Doria: The only reason they didn't do it last year was because the request came in too late for them to take it into account during their deliberation.

Ray Fassett: Okay so that was the GNSO request was for - which is representative of broad stakeholder groups - was for the nom-com to make a decision as to which individual is to go into which house.

Avri Doria: I believe so.

Ken Bauer: Okay.

Ray Fassett: It's hard to follow that logic - follow that logic. Okay. So that would indicate to me that when they're going out and interviewing and putting in the qualifications they are distinguishing one house from another house.

Avri Doria: I would believe so.

Ray Fassett: Okay so if we follow that logic a little further along it appears to me that there is an intent that one NCA is qualified to represent that - a particular house versus the other house. So it would seem - now following this through - it would seem to me that just interchanging one NCA for the other NCA is really not logical.

Avri Doria: That's where I would probably disagree with you.

Ray Fassett: Yeah, I know because I saw your comment and I'm wanting - I understand the comment which is look, nom-com they share - whether you're - no matter who you are as a nom-com you share a common thread that you're representing everybody outside of ICANN. I don't know how else to put that. So...

((Crosstalk))

Ray Fassett: Yeah.

Avri Doria: I would just put it you're representing the interests as you understand them of people outside ICANN, yeah.

Ray Fassett: Yeah. So but then what we're looking at is a GNSO recommendation that the nom-com actually put forth volunteers that are specifically qualified for a given house. That to me throw into question whether they are in fact inter-exchangeable if you will. So there's my - I want to throw that thought out there. Does anybody else have any thoughts on that point?

Ken Bauer: This is Ken. I'm trying to follow here the logic. So I'll just - it always helps me to use an example. So let's say we have a - let's say the nominating committee did in fact assign somebody to a specific house and they did so for very good intentional reasons right.

And so you have a contracted party NCA, voting NCA, and that individual needs to abstain for some reason that we've, you know, that we've already articulated. The - we have defined the concept in the procedures of an appointing organization. And in this case the appointing organization is the nom-com, right, just stipulated that.

But I don't think it's going to be practical for us to back to the nom-com to get instruction or proxy or some other sort of thing. I don't think they're a standing body are they, Avri?

Avri Doria: No, I mean, yes and no. There's always a nom-com, but that's beside the point. Right. But they do - but I guess what I'd add is they do appoint a non-house - nom-com person. Now they can certainly appoint a non-house nom-com person that is an adequate substitute for either and such so...

Ken Bauer: And that was you - that was your thought...

Avri Doria: That's my thought basically is that there is a non-voting member of the nom-com - nom-com appointee who is designated as non-voting at all times.

Ray Fassett: That's a third one.

Avri Doria: That's the third one. So to basically say that when there is such a case - and it makes an easy rule too - when there is such a case the vote falls to that one if, you know, that one is otherwise absent, well then I guess we fall down to there being no option because there is no standing, you know, there's no way nom-com can do something like that.

Ray Fassett: All right. Okay, all right. So let me try and understand where I was coming from and it relates to what you just said. So while it may be true or it may not be but let's just for the sake of argument - it may be true that the contracted party house NCA may not be interchangeable with the non-contracted party's house NCA; there could be reasonable truth to the idea that either house's NCA is interchangeable with the non-house NCA. Is that what you're saying Avri?

Avri Doria: Yeah that's basically what I'm saying is that you've got a reserve standing there all the time participating in everything but never voting. It's almost like there's a ready reserve player.

Ken Bauer: So this is Ken. I'm just, yeah, just following through. Under all other circumstances of abstention we require an appointing organization to make a determination as to proxy. And so I'm just following up in this case what we would say is if a voting NCA is going to abstain - we'll just take that case for now...

Ray Fassett: Yeah.

Ken Bauer: ...then it's that individual who decides to proxy his or her vote to the non-voting NCA or we make it it's an automatic; if an abstention occurs and the non-voting NCA is present the vote proxies automatically or is there a decision point do you think?

Avri Doria: I would have thought it was automatic. And that makes it clean. But, you know.

Ray Fassett: I like the cleanness of that.

((Crosstalk))

Avri Doria: And then it deals with the conflict of interest because you're not deciding that someone does it's - I'm abstaining for, you know, this reason therefore it's theirs. I'm absent, it's theirs.

Ken Bauer: And then if the non-voting NCA by virtue - well hang on a second. Is the non-voting NCA a council member?

Avri Doria: Yes.

Ken Bauer: Okay good because we stipulated - I think in the procedures we require that proxies have to go to council members.

Avri Doria: Oh yeah, no they're...

((Crosstalk))

Avri Doria: ...they just don't have a vote.

Ken Bauer: Okay fair enough. All right so I think that's good. So we can definitely proxy the vote then to the non-voting NCA as a council member. And during that - now then at that point if the non-voting NCA says well I'm not voting; I'm abstaining too then it just dies, it just ends. We can write that in.

Okay so does anybody think that the stakeholder groups or houses might have an issue or a problem with that?

Ray Fassett: I'm thinking maybe which is why I was raising the points I was. So...

((Crosstalk))

Ron Andruff: Would you mind, Ken, just - this is Ron. Would you mind just restating now kind of where this comes out just in one sentence so I'm understanding exactly what we're...

Ken Bauer: Sure.

Ron Andruff: Where this ended up.

Ken Bauer: Yeah, for now just the case of an abstention a voting NCA in one of the houses says I cannot vote on this measure for these reasons and I register the abstention. Automatically the non-voting NCA is notified to step in and vote on that issue.

Ron Andruff: And so then that brings the question up does - as I understand it and Avri you were an NCA so...

Avri Doria: Yeah.

Ron Andruff: ...you'd probably be the best one to answer this. In this case then - because in the other cases the house or the constituency directs that individual that's voting to vote in a certain way - so whether it's a temporary or whoever that might, you know, proxy or however that vote is going to be taken it's coming as the result of what the - what we've called a certain party. How did we describe that?

Ken Bauer: Appointing organization.

Ron Andruff: Yeah, appointing organization, thank you. So in this case the NCA that abstains doesn't necessarily pass their wishes on to the other for the vote; that other NCA votes his or her position without taking into account what the first NCA wants is that correct?

Avri Doria: I would think so. Of course, you know, the NCAs do become sort of a non-stakeholder group but they do work together, they do talk together, they do consult with each other. So...

Ron Andruff: I'm just wondering - the reason I'm asking that question...

Avri Doria: But there's no forcing of the issue.

Ron Andruff: Yeah, I'm asking that question only whether or not we need to address that because we have addressed it on the other side; that's the...

((Crosstalk))

Avri Doria: I would think not, Ray.

Ron Andruff: You would think that the person that makes - that actually casts the vote as a proxy or as a temporary would vote their own position is that correct?

Avri Doria: Yes, would vote in the community interest as they understood it.

Ron Andruff: Right, okay.

Ken Bauer: And this is Ken. I think that's probably the only reasonable option anyway because even if the - even if the voting NCA who abstains proxies the vote to the non-voting NCA there's no obligation on that person's - on the secondary person's part to vote however they were told.

And so, you know - and furthermore if the person abstaining did so for - if you will conflict of interest type reasons then it would be even more inappropriate to pass judgment along to the other person, right, to say I want you to vote like this but I can't do it because I have a conflict. I mean, that would not be right, it doesn't sound right anyway.

Ron Andruff: Good point, good point. Well based upon what I've heard then I'm fine with that.

Wolf Ulrich-Knoben: Yeah, I'm okay.

Ken Bauer: This is Ken. Let's try out a couple of other. And I haven't done this - I'm doing it live. Let's take the case of absent. Let's say - because I want to see if we can extend this principal elsewhere.

And so now we've got a voting NCA who is planning let's say to be absent and notifies the secretariat I can't attend the meeting; I proxy my vote to the non-voting NCA. Everybody okay - that sounds like a similar case, okay?

Ron Andruff: Yeah.



Wolf Ulrich-Knoben: It's Wolf speaking. So one question to that, is the NCA - the voting NCA obliged to announce another NCA or could the also announce another person, another council member not being an NCA or is that excluded?

Avri Doria: This is Avri...

Wolf Ulrich-Knoben: You know, what I mean...

Avri Doria: Yeah. This is Avri. That's certainly another option. But what that does as an option is it makes it far more complicated in that then you sort of say for absence you get to pick one but for obligational abstention there's an automatic. And, you know, you end up having to have two rules.

Because certainly you can't pick somebody if you're doing a obligational abstention. So for the obligational abstention at the very least it would have to be an automatic fall-over or not at all. It can't be the house because then they're making a decision which they don't have a - ability to make. So certainly for obligational abstention I think it has to be fall-over.

You're right it could be at the will and whim of the NCA herself or himself however that one I can see people perhaps having to have issues with some of the various stakeholder groups and it may become awkward that you're giving it to somebody in a stakeholder group and it gets into alliances. And it's possible but it's more complicated.

Ken Bauer: You know, this is Ken. In essence by - we could think of the non-voting NCA always like Steve Metalitz's concept that he was going at when he talked in Nairobi. That is there is somebody in my stakeholder group who is the designated hitter, all right. And anytime somebody needs a proxy or a temporary alternate the designated hitter stands in for them.

And in essence we're - I think we're thinking about the non-voting NCA kind of like that right? That person - that position although it wasn't done with this

in mind, we could think of it this way, the non-voting NCA is the default stand-in and is there precisely for situations in which the voting NCAs can't do their jobs.

And so we make it possible whether it's an abstention, an absence, a leave of absence, a vacancy of some other kind, any of those conditions the non-voting NCA steps in and acts.

Ray Fassett: I get the logic of that. This is Ray. I think if it's a default situation then that's a cover-all, each of the scenarios then...

((Crosstalk))

Ray Fassett: I think it's a reasonable remedy.

((Crosstalk))

Wolf Ulrich-Knoben: Yeah.

Avri Doria: To answer your initial issue of the nom-com picks someone specifically for house or for house, one of the notions that's always been is that in some sense the most senior of the NCAs is the one that can survive best as the homeless one. And I know some people hate it when I call it homeless but I got into that when I was an NCA.

But if the nom-com knows that the role of the person in that voteless chair is to, A, not only be the independent voice for whatever, you know, interests of the community but is also to be a balance person that can, you know, vote on either side, that becomes part of their criteria and picking.

Ken Bauer: Ray, this is Ken. I believe I have enough on this particular issue to remedy the - I hate to use the word remedy - but to fix the procedures and put it back

in such a way that we now do have remedies for abstentions and absences and vacancies and leaves.

I think I can fix the document so that in all cases where it makes sense - and by the way the only remedy that will apply is proxy, right? We agree on that. There's no voting direction possible and there's no temporary alternate - well I should take that back. Can the non-voting NCA be a temporary alternate?

Avri Doria: I think that was automatic kind of in what you were saying.

Ken Bauer: Well...

Ray Fassett: Well for the other NCA I think...

Avri Doria: Yeah.

Ray Fassett: ...Ken is asking broader than that right?

Ken Bauer: Well the temporary alternate stands in not just votes a particular motion, right? So let's say we have a voting NCA who is going to be absent for an extended period, a leave of absence.

In that case we could let the temporary alternate procedure take affect where we have said the temporary alternate cannot be used because there's no quote appointing organization. In this case we're defining no need for an appointing organization in the case of the non-voting NCA.

So the two remedies would apply. The temporary alternate and the proxy.

Ray Fassett: Yes.

Wolf Ulrich-Knoben: Yeah.

Ray Fassett: Right.

Ken Bauer: And I'm guessing - I'll have to think about this as I go back and reconstruct this - that the differences to which one it is probably depends on whether it is a vote - it's a single vote or a couple of votes or as a single meeting versus it's over an extended period.

Ray Fassett: I don't disagree with the logic. Does anybody else?

Ron Andruff: No for my part - this is Ron. I have no problem with that.

Wolf Ulrich-Knoben: Yes.

Ray Fassett: So specifically we're looking at here 3.8.4 - so Ken is going to volunteer to put in some modifying language to C, right?

Ken Bauer: Yeah, may I have a little bit more latitude to actually go back through the entire section 3.8 and 4.5 and make sure - there might be other places I need to tweak things to get this right. But I'll be sure in the next draft that only - that's all you'll see in redline text is the changes that were - so I'm hoping that in today's call we can accept all the other changes that have been discussed and then only concentrate on fixing the NCA thing.

Ray Fassett: All right so...

Ken Bauer: It might be more than just that one place is...

((Crosstalk))

Ray Fassett: All right so procedurally here's what I'd like to run by. So we understand - we understand what you're looking to do at our direction. You will - we will at some point today likely accept the changes to get a clean document as of the call today.

And then there will be another redline version for this issue only. Right? And I will - if you can give us a time or - today's Wednesday - I'm going to call end of day - end of business day Friday because this should be a very quick review that what we're talking about here has been captured in the various places Ken feels it should be.

And I'm going to call end of day Friday if no one has a problem with what Ken re-circulates then we're looking at this Section 3.8 and any other applicable section, Chapter 4 if possible, is - there's not objection to it. Fair approach?

Ron Andruff: And so - this is Ron. Understanding what you've said Chairman what we're going to do then is that by close of business Friday there's no push back on any of the issues that this redline version articulates then you will take that as a sign of accord by the work team and you'll forward that onto the OSC accordingly?

Ray Fassett: That's right. So I'll accept it as a clean, I'll accept changes and use that to - for our communications to the OSC.

Ron Andruff: For my part I think that's a good way forward.

Ken Bauer: This is Ken. As I normally do, you know, I'll describe both in the email transmittal as well as redlined in the text sort of what I've done. And if there's anything that strikes me while I'm doing it that we didn't discuss I'll annotate all that so that you'll have all the information you need to decide.

Ray Fassett: Okay so given the changes to 3.8.5 that we've already discussed, that was very minor, and now this particular adjustment to the NCA language and alternates, etcetera, I'm hearing anyway that we want Ken to go ahead and accept all changes and then issue us a new document showing the redline changes; is that correct? And then we are done with 3.8 for today.

Wolf Ulrich-Knoben: Yeah.

Ken Bauer: Correct.

Ray Fassett: Okay good. All right, very productive. So let's move onto Chapter 4. So I'll just ask any general comments, any major issues here or do we want to just go right to the edits of which the first edit I see is 4.4.4.

Ron Andruff: Agreed, 4.4.4, new edit, agreed.

Ray Fassett: I agree with that. Any...

Wolf Ulrich-Knoben: Yeah.

Ray Fassett: Any issue? None? Okay.

Ken Bauer: I've accepted it.

Ray Fassett: Okay. The next one is for me is Page 7 of 19, top of the page.

Ken Bauer: Four point five point two A.

Ray Fassett: Yes.

Ken Bauer: And that's the deletion of unavoidable absence?

Ray Fassett: Right.

Ken Bauer: I agree with that.

Ray Fassett: No objections?

Wolf Ulrich-Knoben: Yeah, agree.

Ray Fassett: Okay good.

Ken Bauer: This is Ken, got it.

Ray Fassett: Okay let's go to my next one I see is 4.5.3 which is remedies, second paragraph.

Avri Doria: That's one of the ones...

Ken Bauer: This is Ken. I think this particular matter bears on the other discussion we had so this will likely - not likely - it will be changed.

Ray Fassett: I agree.

Wolf Ulrich-Knoben: Yes.

Ray Fassett: And I think we all understand what that change is going to be. So we're hitting the ground running. The next one I see is voting direction under voting direction. I think what we did here was there was a question on using the world 'consensus,' it's being used so many different ways. So I think the idea here was to provide some definition for sake of a better term to this remedy.

Ron Andruff: I agree with clarity. This is Ron.

Ray Fassett: Okay good. Anyone else?

Wolf Ulrich-Knoben: Okay.

Ray Fassett: Okay great because I think it's used a few times coming up here.

Ken Bauer: Yeah, this is Ken. I accepted it.

Ray Fassett: Okay. Okay so under proxy voting...

Ken Bauer: That's the same situation. And I accept it.

Wolf Ulrich-Knoben: Yes.

Ron Andruff: I agree.

Ray Fassett: Avri, you okay?

Avri Doria: Yeah.

Ray Fassett: Okay. Next one would fall under temporary alternate.

Ron Andruff: Well the next one is - that would be Section 4.5.3b where that deletion of the NCA - again I think that'll come back for review as we've just discussed.

Ray Fassett: Oh correct, yeah, good point.

Ken Bauer: Right, so this is Ken. Both little i and little ii will - in fact I just rejected the deletion of ii. It can't stay probably in the current - but it needs to come back in because we're clearly going to use it. All right.

Ray Fassett: Right, good catch. Okay so now we move onto temporary alternate. And again I think that's going to be affected by what we just discussed, right?

Ken Bauer: Right.

Ray Fassett: Okay so next would be the same section but it's now - for me it's Page 14 of 19 Number 3.

Ron Andruff: So that's small C, Item 3?



Ray Fassett: Yeah. I think that changes.

Ron Andruff: No - is this not the idea of the designated hitter that - the example that's Ken's been using?

Ray Fassett: Yeah I think we just said that an NCA can be a - basically a temporary alternate for a proxy right?

Ken Bauer: This doesn't really deal with NCA...

Ron Andruff: Oh exactly. This is the idea of the designated hitter where one could continually, you know, take different roles if so given. And I didn't have any problem with this when I read it through the other day. So for my part I'm fine with this change and with Ken's comments.

Ray Fassett: Okay.

Ken Bauer: And so, yeah, all we're trying to say here - this is Ken - is that if a temporary alternate is named that person cannot also be then selected as a proxy.

Ray Fassett: I got you so that's a stacking concept; I get it.

Ken Bauer: Yeah, that's all.

Ray Fassett: Are we covering the stacking concept with regards to if both voting NCAs have to abstain or one has to abstain and one is absent? Can the non-voting NCA take both?

Avri Doria: I was wondering if we were going to hit that one.

Ray Fassett: I wouldn't have thought of it until I understood this one here. You know, my initial thinking on that is, well, it's one, you know.

Avri Doria: It's one, yeah.

Ray Fassett: Yeah, it's one. So we probably want to provide some clarity to that, Ken.

Avri Doria: And the problem is which one is it. And I guess that that becomes a problem.

Ray Fassett: First come first serve.

Avri Doria: Okay.

Ray Fassett: No. That was a joke. That was a joke.

Avri Doria: No but you're right, you're right.

Ray Fassett: Okay that's fair.

Avri Doria: I don't know how you say that but...

Ray Fassett: Right. Right.

Ken Bauer: I'm sorry, this is Ken. What does the team think the right - so what I'm going to do is take a more - perhaps a more realistic case. Two voting NCAs are both absent right?

Ray Fassett: Right.

Ken Bauer: And so what's the team's thinking about how it gets resolved? Or if you said it I missed it.

Ray Fassett: Well I think we're leaving it unsaid. I think what we're stipulating or talking out loud really is that the non-voting NCA only gets one not two.

Avri Doria: I mean - this is Avri. My brain is insane enough to say, you know, half vote in each. But that's insane.

Ray Fassett: Right. So then it becomes a procedural question of who gets, you know, who gets - who gets to use the non-voting NCA and I...

Ken Bauer: This is Ken.

Ray Fassett: Yeah.

Ken Bauer: One option would be first come first served by...

Ray Fassett: Oh I said that.

Ken Bauer: Oh okay.

Ray Fassett: I was kind of joking but it is a fair method. I mean, I don't know is there a procedure that in all cases the secretariat needs to be notified before the non-voting NCA can actually effectuate their position as a voting participant? So is the procedure then the first one to notify the GNSO secretariat? I don't know.

Ken Bauer: This is Ken. In the concept that it's an automatic, right, then I think that is rational, right. The minute that I register my abstention or I signal my planned absence we said that it was automatic; the abstention and the vacancy or absence automatically rolls.

And therefore if it's automatic it's already been done and therefore the second person comes in can't have it automatic anymore because it's already been done. That would be one way of thinking about the logic.

Ray Fassett: Yeah, but who's getting notified?

- Ken Bauer: The way we have the procedures written is that the GNSO secretariat is notified.
- Ray Fassett: In all cases without exception? The GNSO secretariat must be notified is that right?
- Ken Bauer: That's how we've written it, yes.
- Ray Fassett: Okay then there you go. I think that does solve it.
- Ken Bauer: So that establishes time right? And, yeah, okay. Does anybody have a problem with that? That's how I'll write it and we can take a look at it.
- Ray Fassett: Okay good. Moving right along...
- Ken Bauer: Okay so this is Ken. I'm going to accept that last change in Letter iii.
- Ray Fassett: Right.
- Ken Bauer: And delete the comment.
- Ray Fassett: Okay. Okay so let's look at 4.5.4 procedures, A, notification by a councilor.
- Ken Bauer: This is Ken. I think that's going to - that falls into the NCA issue.
- Ray Fassett: Yeah, yeah, that's going to change.
- Ken Bauer: Correct.
- Ray Fassett: So it's going to change in a way that delineates between the council - the stakeholder group representative and an NCA; two different procedures here, right?

Ken Bauer: Ray, this is Ken. I'm not 100% sure how it's - I'm going to end up writing it exactly but if you'll give me a little bit of latitude here I understand the spirit and the principal. I think that the team wishes and I'll craft it in such a way, I hope, that it'll be - you'll like it.

But how it's going to exactly come out I'm not 100% sure yet because I have to go back and reread everything again to make sure I do this in a efficient way and also accurate way.

Ray Fassett: Right but we know for a fact that the NCA has to notify the GNSO secretariat. We're providing that - we're kind of providing that direction here. Does anyone disagree with that?

Ron Andruff: Agreed.

Ray Fassett: Okay so if that's true then the open point here is what does a stakeholder group representative - what is their procedure? And right now it says that it'll be provided - notification will be provided to the appointing organization.

Ken Bauer: With a copy forwarded to the GNSO secretariat.

Ray Fassett: Exactly. So I think all we're doing here if anything is adding that the - that the NCA voting person will - must notify the GNSO secretariat whereas the stakeholder council member does not have to.

Ken Bauer: Yeah, again, this is Ken. I...

Ray Fassett: I just want to make sure we're on the same page.

Ken Bauer: Yeah.

Ray Fassett: The more we can get out of the way now the less we have to, you know, worry about later.

Ken Bauer: The specific clause and where it gets inserted, you're right, what we have to do is essentially say something that is equivalent - like we said - I deleted or house leadership for a voting NCA. That's going to stay deleted but something like it's got to take its place so that we capture the idea that the voting NCA doesn't have a appointing organization, right.

So I may have to re-craft that paragraph in such a way - maybe separate the two thoughts so that voting NCAs 1 and something - the other is the same.

Avri Doria: Can I - this is Avri. Can I suggest something?

Ken Bauer: Sure.

Ray Fassett: Yeah.

Avri Doria: That it probably makes sense for them to not only notify the GNSO secretariat but they might also want to tell the non-voting NCA. Hey guy, you're on.

Ray Fassett: Yeah.

Avri Doria: And that way - because in the other case you're informing both the people that have to provide the substitute vote and the authority that has to be - accept the vote. And so this is sort of a parallel construction. You have to notify the voter, okay, not the person that has to provide the vote but the voter and you have to provide the confirming authority.

Ray Fassett: Yeah, the only - the only practical reason I would not - I could see that that could go wrong with that is okay I've notified the non-voting NCA but I forgot or whatever reason forgot to notify the GNSO secretariat.

So then, you know, unbeknownst to the non-voting rep, okay, the NCA person and they walk into the meeting and they're ready to vote and it's like well wait a minute who said you could vote? I was never notified.

So now you've got this discrepancy going on versus a very simple if you haven't notified the GNSO secretariat it's - you're out, it's not going to work.

Avri Doria: Well that's why I was saying and.

Ray Fassett: I know and but I'm just thinking of the scenario where they notified one but not the other. And now you've got the new NCA rep - I mean, the non-voting NCA rep under a different pretense than anybody else; no one else knows about it just simply because the voting NCA rep didn't follow the right procedure. Well now we have a confusion. Do you see that scenario or am I just...

Avri Doria: And in the case of the stakeholder group member it's not an and it's an or? I don't have it in front of me at the moment.

Ken Bauer: This is Ken. I was just going to make that very point, Avri, it is an and. And there's a notification to the appointing organization with a copy to the secretariat. Same question I think Ray might apply there, what if the secretariat doesn't get it but the appointing organization does or vice versa. I mean, does that create the same kind of a problem?

Ray Fassett: Well I think it can but the cross check here is you've got two different people involved doing the notification. You have the affected voting person. And if they slip up well then now it's the chair of the appointing organization that has to slip up too. You both have to slip up for the scenario to happen.

Ken Bauer: This is Ken. We could to tighten this up just a bit some sort of - I sort of like the idea - we could ask the non-voting NCA to confirm the understanding. Now in a sense we've duplicated the double notification to the secretariat. So

I, voting NCA, am going to abstain, I notify the GNSO secretariat, I notify the non-voting NCA and that non-voting NCA is required to confirm understanding back to the GNSO secretariat. I mean, it may be a little too much.

Ray Fassett: No, no actually I kind of like it, I mean, it's not that hard. I kind of like the idea.

Avri Doria: And to a protocol writer a two-way handshake, hell, we use three-way handshakes...

((Crosstalk))

Avri Doria: ...certainly not overkill.

Ray Fassett: I'll leave it up to the group as to whether that's overkill or not. I can go either way; it doesn't matter too much to me.

Ron Andruff: I'm always a strong supporter of checks and balances so I like that.

Ken Bauer: Okay, this is Ken. I've noted it. You'll see something drafted to that affect.

Ray Fassett: Okay thanks Ken. Okay I think we're onto communication now.

Ken Bauer: And this is Ken, I have no problem with that first sentence.

Ray Fassett: Good. I don't either. Okay. There are a couple other word-smithing going on. I think...

Ron Andruff: In the second sentence it's a little bit of the discussion we just had.

Ray Fassett: Yes. I don't think there's anything new there. I think if we move onto the bullet points that follow B onto the next page I think we're seeing this language being consistent to what we've already agreed upon.



Ron Andruff: This is Ron. I had no problem with any of those changes and agree with Ken's comment.

Ray Fassett: Okay. Are you - where are you at now? I think you're on Page 18 now aren't you?

Ron Andruff: Well now on my screen it's coming up something different but the first bullet where the changes start taking place is for the specific remedies of voting directors.

Ray Fassett: Oh okay great, okay yes, right.

Ron Andruff: So I was saying I agree with all the changes and down in the last part - or actually at the first paragraph after the bullets begins in order for an abstention remedy, and there's some comments that are being included with that.

Ray Fassett: Right.

Ron Andruff: I agree with them.

Ray Fassett: Wolf, Avri how about you?

Wolf Ulrich-Knoben: I'm okay with that, yeah.

Avri Doria: Yeah.

Ray Fassett: I am too. Okay good.

Ken Bauer: This is Ken. I'm accepting it and deleting the comment. Okay cool. The only that I - this is Ken. The only thing I have left then would be redline changes

that you'll see new that will accommodate and put into procedures what we want to do with the vote - with the NCA positions as discussed.

Ron Andruff: And Ken, this is Ron. There's also at the top of this document you'll get rid of the KB note. It says KB note version 18 in accordance with direction. So that note will be taken away.

Ken Bauer: I'm happy to take it away. I thought I might put it in just for this next version but we can take it out when we send it to the OCS.

Ron Andruff: That's fine.

Ken Bauer: I want to go back if we could. I still see some redlining; I want to make sure I - in B, proxy voting, under 4.5.3 remedies there's a sentence at the end of little i that says the councilor to whom the vote is transferred shall exercise the vote in line with the appointing organization's stated position.

Did we discuss that one?

Ron Andruff: Yes and we agreed that's fine.

Ken Bauer: Okay I didn't capture that one so good. Okay good then I think that's got it.

Ron Andruff: Now there was some - this is Ron. There were some notes that you made in the email itself, in the body copy, Ken, where you clarify the points and then you also had written a piece for Ray as a draft for our review, some council resolutions as well.

Ken Bauer: Correct.

Ron Andruff: I just wanted to note that the comments of the transmittal document and the - as well as the GNSO resolutions from my point of view are fine.

Ken Bauer: Yeah, this is Ken. I would - I will go back to the transmittal letter and of course when we transmit the documents - I do have to make the adjustments to the NCA discussion in that...

Avri Doria: Yeah.

Ken Bauer: Yeah, obviously. And I'll do that and you'll get another version of that document as well.

Ron Andruff: But I guess my question - this is Ron. My question to the rest of the team does anyone else have any problems with what we're seeing now before us? Understanding that we will see a redline with any of the NCA language we've discussed.

Wolf Ulrich-Knoben: Yeah.

Ray Fassett: All right so I think we're feeling comfortable as a group. Now what is the group's expectations on getting this - getting the - assuming the edits that we expect - that we know are coming, okay, are okay. What is the expectation on getting the information out - over to the OSC?

Ron Andruff: Well for my part - this is Ron - as I mentioned earlier, Ray, I think the way forward that you recommended is the way to go by Friday close of business, no pushback from the team, you should then use these transmittal documents that have been - which we redlined, remove the redlines and send them on with actually a note of closure that in fact our work is complete.

Ray Fassett: Right. I agree with that. Now Ken does that give you time to - not time for you here? I think - because we have discussed the issues we really know what's coming in your changes I think 24 hours is enough for anyone on the work team to review it. And if there's a substantive issue to bring it forth. So with that said, Ken, is there enough time for you to do what's necessary here?

Ken Bauer: This is Ken, absolutely.

Ray Fassett: Okay so I think that's a good plan. So you're counting on your chair to get this stuff over to the OSC Friday night, Saturday morning, something to that affect.

Ron Andruff: That'll be fine.

Ray Fassett: Okay.

Ken Bauer: And this is Ken. If I might, so let's see, that - if the OSC had it - let's just say for talking purposes Monday, 24 - 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 - they've given themselves typically 10 days; I don't know if that's 10 calendar days or workdays. But that would actually put it to June 2.

Now the deadline for council resolutions and documents for the 10th council meeting is the 3rd.

((Crosstalk))

Ken Bauer: I just wonder - it's tight but it's possible that these two resolutions that I've shown now as A and B could be made into a single resolution and encompass all five documents. But we would have to ask the OSC if they think they can review it and approve it essentially for inclusion in the 10 June council meeting.

Avri Doria: And this is Avri. The question I would bring up is have we passed anything through the OSC that didn't get changed?

Ray Fassett: No it hasn't. I mean, I don't know for sure but obviously we've had good healthy and constructive feedback...

Avri Doria: Oh yeah...

((Crosstalk))

Ray Fassett: No, no, I know you're not saying that so I think you're saying, you know, we should anticipate feedback coming back. But I think that raises a good point, I mean, I'm just going to talk out loud here. We've been provided a deadline, okay of June 1.

As far as we are concerned we've done our work here. If the OSC wants to change some things I think they have the - are we giving the right - are we giving the OSC the right to go ahead and make changes that they would like to make without having to come back to us?

Ken Bauer: This is Ken. As a point of order you have already done it. It's already - there's already precedent set. There were some titles, column headings and other things, there was some language changed by the OSC and those changes are already in the documents that are going forward to the council in Sections 2.1, 2.4 and in Chapter 5.

Ray Fassett: All right so I think maybe a qualifying statement in our transmittal letter that says given the timeframes involved, etcetera, any - I don't know if we want to put in the word non-substantive or nonmaterial changes felt by the members of the OSC, the (gCOT) anticipates that changes such as this will be made. Should we, yeah...

Avri Doria: I think it's - this is Avri - I think that's fine for non-substantive. As a member of the OSC if we start to want to change it in a substantive way I know my inclination would be we have to send it back.

Ray Fassett: Okay.

Ron Andruff: Yeah, this is Ron. I'm also OSC member; I would agree with that. And I would just add one other point, I think the good news is that the work of - done on

the OSC side has been relatively responsive, meaning that if in fact they received this on - the OSC receives this on Monday I would think before the close of business of Friday we will have seen the changes, comments and so forth. So we'll know pretty quickly what if there's any issues of substance.

Ray Fassett: Okay so - yeah...

Ken Bauer: This is Ken. Just one more - a quick thought. I put this in my email. The OSC has already seen and reviewed the Chapter 4 on voting. And so it's not the first time they will have seen that. And in fact this revision we're sending captures some ideas that came from their original input.

Ron Andruff: Exactly.

Ray Fassett: Right.

Ron Andruff: So I think we're going to be good in terms of the timing. And I think the transmittal letter just has to make those notes. But I'd be - I would be a little bit cautious about giving them too much latitude. We've seen that they've tried to exercise that latitude without having that approval from us or that authorization from us already on a couple of counts. So just be careful in the transmittal letter that it's quite clear that, you know, non-substantive changes are welcome in the interest of time, you know, anything substantive absolutely must return to the OSC - or to the (g-COT).

Ray Fassett: Okay, that was exactly my question is as to how the work team members felt about non-substantive or substantive changes and you've answered that. So anything substantive we do have an anticipation it will be sent back to us from the OSC.

Ron Andruff: Yeah.

Ray Fassett: Good, good. That's the clarification I was looking for. We had an issue arise with the (SOI DOI) which you guys are probably already familiar with. And it has to do with the question that Steve Metalitz originally raised with having to do with ICANN preparing a list of contractors - a public list.

We briefly discussed it, thought while a valid point not necessary or not appropriate for reasons we had to include into the GNSO Council Rules of Procedures. And I remember there were a couple of reasons why.

I remember mine was it had to do with the fact that, you know, these are the GNSO Council Rules of Procedure not the ICANN Rules of Procedure. So how are we going to direct ICANN through the Rules of Procedure to prepare a list?

But not only that there were a couple issues like that where we thought, okay, yeah, the question being raised was valid but it wasn't within our purview to try and address through these Rules of Procedure. Nonetheless Steve brought that comment back again where I had to go back and do some research.

I talked to Rob and Julie and a few other staff members to try and clear the cobwebs out of my head as to why we didn't put in that language. So I do want to just mention that that discussion took place. And I think where it ended up is the OSC is not going to approve the (SOI DOI), what is that Chapter 5, Ken?

Ken Bauer: Yeah. I think - I don't think that's exactly correct.

Ron Andruff: No. My take on it, Ray, as a member of the OSC again is that - it's being sent forward with the recommendation that staff be instructed to please develop that list.

Ray Fassett: But in the meantime - but in the meantime council is - OSC is not recommending for council to adopt the (SOI DOI)...

Ken Bauer: That's not my understanding...

Julie Hedlund: No that's - this is Julie. I've been following this closely. So what (Phillip) has asked the OSC is that the (SOI DOI) procedures go ahead except for the sections affected by Steve Metalitz's request, that is the list, that there should be a list developed of all of those who have contracts with ICANN that the council would and could proceed on expecting the procedures without that section and would request staff to investigate how to do the list and privacy issues and so on.

And set a date for staff to do that. At which point once that list was established that section would go back into...

Ray Fassett: Okay.

Julie Hedlund: ...the procedures.

Ray Fassett: I'm asking a slightly different question. I'm asking a different question.

Julie Hedlund: Okay, yeah. But I also want to point out that my - I have not seen a response from Steve Metalitz. My understanding from Steve's messages was that he was not wanting the procedures to go forward - the section to go forward at all unless the list question was addressed.

Ray Fassett: Exactly. So that - now we're saying the same thing. So that's what Steve's - that's what I caught to be Steve's view. And actually I came back to Steve to the OSC and said well that's really not the intention of the (gCOT) to hold up the (SOI DOI) until staff does this work. That was really not the intention.



So I'm curious now - so where is it? So is the - so if I'm - the (SOI DOI) procedure specifically are moving - are being approved except for those affected by the list?

Julie Hedlund: That was (Phillip)'s suggestion. This is Julie.

Ray Fassett: Okay.

Julie Hedlund: But (Phillip) has given until the 23rd of May for the OSC to respond to his recommendation.

Ray Fassett: Okay great. I think - I got it now. I understand. So was everybody pretty much aware of this already, this little exchange that happened on the (SOI DOI)? Or is this new information to anybody?

Wolf Ulrich-Knoben: No.

Ray Fassett: Okay.

Wolf Ulrich-Knoben: I know that.

Ray Fassett: Because I was - generally do not speak on behalf of the (gCOT) to the OSC but given the time issue here I did so. But at the same time knowing that Ron's on there and actually Avri, I didn't know that you were on there but now I know that. So you guys are seeing my correspondences anyway.

Avri Doria: Yes. Yes.

Ray Fassett: Okay so that - I was kind of banking on that.

Ron Andruff: There's no issue there Ray.

Ken Bauer: This is Ken. I just want to chime in. I have a note myself to bring this subject up on the 24th, the day after the 23rd's deadline and see where the OSC is on this subject. I mean, if they say that Chapter 5 cannot go forward at all for approval until this issue is remedied then I can fix the resolution to take that one document out and then that - sort of the Group A would then be just two documents. There would be term limits and the board seat elections. And then, you know, maybe that one would come in later at some time.

Ray Fassett: Right. The only thing I want to make clear because you guys are in the OSC and I'm not - or involved with that and I'm not, is okay if they - I just want to understand for my own well being here if by chance the OSC decides to hold out all of Chapter 5 that does not go within the spirit of what the (gCOT) wanted.

Ron Andruff: Yeah, and I don't think that's going to happen Ray.

Ray Fassett: All right...

Ron Andruff: Yeah.

Ray Fassett: ...I just wanted to make that clear so, you know...

Ron Andruff: No and I think we're all on the same page that we want these just to be processed and passed onto the GNSO right away; there's no reason to hold this up.

Ray Fassett: Okay I just wanted to make sure in case that question gets asked...

((Crosstalk))

Ray Fassett: Okay very good.

Avri Doria: I certainly would.

Ray Fassett: Okay very good.

((Crosstalk))

Ray Fassett: All right so any other business we have here? If not Avri I want to thank you for going through and raising those questions you did on the most recent documents by Ken. And Ken thank you for your hard work.

I wanted to hold out this just for all of your - back of your minds let's hold out next Wednesday if at all possible if case we get some early pushback and we need to have a meeting or it doesn't have to be a Wednesday. Let's just all keep in mind over the next two weeks if there is something substantive that comes back to us we may need to call a meeting. Fair enough?

Ron Andruff: Fair enough.

Ray Fassett: Okay.

Wolf Ulrich-Knoben: Fair enough.

Ray Fassett: With that I will ask to adjourn the meeting and end the call and the recording.

Julie Hedlund: Great, thanks.

Ron Andruff: Thanks everyone.

Ray Fassett: Thank you everybody.

((Crosstalk))

END