

GNSO
Operations Steering Committee (OSC) GNSO Council Operations Work Team
29 September 2010 at 17:00 UTC

Note: The following is the output of transcribing from an audio recording of the Operations Steering Committee (OSC) GNSO Council Operations Work Team teleconference on 29 September 2010 at 17:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to the meeting, but should not be treated as an authoritative record.

<http://audio.icann.org/gnso/gnso-gcot-20100929-en.mp3>

On page:

<http://gnso.icann.org/calendar/#sep>

(transcripts and recordings are found on the calendar page)

Participants on the Call:

Ray Fassett – Registries Stakeholder Group
Wolf Ulrich Knoben – ISPC
Ron Andruff – CBUC
Avri Doria – NCSG – vice chair
Eric Brunner-Williams - Individual

Staff:

Liz Gasster
Glen de Saint Gery
Julie Hedlund

Apologies:

none

Coordinator: Good evening. I'd like to remind all participants this conference is being recorded. If you have any objections, you may disconnect at this time. You may begin.

Glen DeSaintgery: Would you like me to do a roll call Julie?

Julie Hedlund: Yes, please Glen. Thank you so much.

Glen DeSaintgery: Thank you. Good morning. Good Afternoon. Good evening everyone. This is the 29th of September GCOT call. And on the call we have Avri Doria, Ron Andruff, Eric Brunner-Williams, Wolf-Ulrich Knoben, and Ray Facet. And for staff we have Liz Gasster, Julie Hedlund, and Glen DeSaintgery.

Thank you very much. Over to you, Ray.

Ray Facet: Okay, thank you Glen. All right, so the agenda today...

Avri Doria: Oh, before we get to the agenda...

Ray Facet: Yes?

Avri Doria: This is Avri. Can I say something?

Ray Facet: Oh, yes. Avri, go ahead please.

Avri Doria: Okay. Yes. I sent an email message from the wrong address, and then I sent it from the right address, and I was going to mention this when we did the SOI/DOI stuff. But since we weren't doing that - I mean, when we did the SOI for the group, not the SOI topic. I was going to mention - and the note that I sent said, "As I will not be able to accept the fact that we are working on this at all," and I'm referring to the SOI doc, "at this time, let alone accept some of the changes proposed by ICANN staff, I will no longer be able to function as a neutral Vice Chair. And while I will remain in the group, I hereby resign my role as Vice Chair."

So I tried to say that 15 minutes before the meeting, as soon as I saw the note Julie sent with the document with the staff changes to SOI, but sending it from the wrong address, it didn't get through. So I wanted to start this meeting with my resignation, because I can no longer be neutral. Thank you.

Ray Facet: Okay. So, does anybody want to update their disclosure? Thank you Avri.

Okay, so there is - and I'm - okay, so here is a document from Julie. I apologize I've not read it. I think that's the one you're referring to Avri?

Avri Doria: Yes.

Ray Facet: Is that correct? Okay. All right, so let me just try and decipher a little here, okay. So, "Attached is the SOI document suggested changes." Okay, so now we do - are we all starting on the same page, that the SOI rules or procedure that were initially approved by the work team and boot up to the OSC, and that were eventually not approved by the Council. Is that - are we all starting from the same place there?

Avri Doria: I thought they had been approved by the Council? This is Avri.

Julie Hedlund: Ray, this is Julie. If I could clarify?

Ray Facet: You're going to clarify? Yes.

Julie Hedlund: The SOI procedures were partially approved by the GNSO Council. Section 5.3.3 was not approved. That's the section that pertains to the actual content of a Statement of Interest. That is the questions that would be asked. That section has been held in abeyance, and the previous procedures have been applicable until that section is clarified by this work team. And, the clarifications relate to the issue concerning a list of contracted parties - the concern that Kristina Rosette and Steve Metalitz had raised.

Ray Facet: Okay. So, let me start with that. Now Avri, can I ask you since the - what you - if I understood your resignation statement correctly -- of the Vice-Chair, not from the work team I might add -- correctly, is it correct that you're resigning over a portion of the SOI that has not yet been approved by the Council?

Avri Doria: No. Okay, to make it clear. As I say, I'm resigning because I'm no longer neutral on the topic, and that - now, the issues I'm no longer neutral on are two-fold. One of them is I believe the only pending issue is (FAS) giving the list of contractors and the means of that. But, there was no issue about the

rest of the content wording of the SOI. So, I don't believe - now, I thought it all had been approved except for that 5.4 chunk.

So A, I don't believe that all of the SOI/DOI issue is open. But even if it is, I strongly disagree with the changes being proposed by the staff, and therefore would not be a neutral participant in that discussion.

Ray Facet: Okay. So, let me...

Avri Doria: So, it's a two-fold thing.

Ray Facet: Yes. Go on.

Avri Doria: And if we decide that no, this was never approved by the Council; therefore, they don't need to send it back to the OSC. Therefore you know, it's still an open subject on the thing, I guess as a procedural ruling that you know, there's not that much to say about, though I dispute it. But it's really I'm not neutral on the topic at all, and I don't deserve to be a neutral Vice-Chair.

Ray Facet: All right. So, I have a - all right, I have another just procedural question here that maybe some staff members on the call can help me with. Is it - let me just try and word this question as carefully as I can, okay, because I don't want it misinterpreted. Is there some documentation somewhere that says a Vice-Chair has to be - remain neutral?

Avri Doria: Can I mention why?

Ray Facet: Well, no. Not why. I'm looking for...

((Crosstalk))

Avri Doria: I think (unintelligible)...

Ray Facet: You know what. I'm trying to apply this to other groups as well.

Avri Doria: Right.

Ray Facet: And not just our own - I'm trying to understand in the whole scheme of things, you know are Vice-Chairs to be resigning because they feel they have a opinion? I'm throwing that question out.

Avri Doria: And can I explain why I think I have to, in terms of exactly your question. A Vice-Chair, their function is to assist the Chair, and I think in that role, no. They probably can have an opinion; however, if half way through a meeting the Vice-Chair needs to step in as Chair, as happened at our last meeting, at that point they have the obligation of neutrality.

Ray Facet: Yes, I think that's why. I agree. So when a Chair - or when a Vice...

((Crosstalk))

Avri Doria: (And I can't do that).

Ray Facet: Well, but at the point that you would have to take over the Chair's role is when you would say, "No. I'm sorry. I can't do that." Just like I asked you at the last meeting, I asked you the question, "Are you able to do that?" I think that's what every Chair does. So, I'm just asking. I think Wolf is out there, and I don't mean to hog the mic here.

Wolf-Ulrich Knoben: This is Wolf speaking, right. I also would like to ask Avri. So I understood you first, you know, had said you may resign from the Vice-Chair just on that topic. So to be not neutral about that topic, but if you could be, and I see that you can be neutral with regard to other topics, so you may step in again as Vice-Chair. So, I wouldn't see any problem for that topic that you step down for that topic as Vice-Chair. But with regard to others, I don't see any problem you know to step in again, or is that too complicated?

Ray Facet: No. No. I don't think it is.

Go ahead Avri. I'm sorry.

Avri Doria: You see, I thought it was an (atomic) thing. Either one was in a neutral posture or one wasn't. I never gave it any thought actually on whether it was a issue by issue thing, and I think this is actually an interesting topic in and of itself, in terms of...

((Crosstalk))

Ray Facet: See, here's my issue. I want to explain my issue here, okay. I think that we're a productive work team, and I think that we've gained some degree of legitimacy out there with others who have examined our work. And I think Avri as the Vice-Chair adds to that credibility and legitimacy of what we're doing. And as the Chair of this work team, I would find it perhaps damaging or harmful - not unrecoverable, I don't mind you. I don't want to - you know, I don't want be - lead the wrong way, but nonetheless, more harmful than not by this action.

And Avri, is a - is obviously free to resign her position if that's what she feels compelled to do, and I'm not arguing or not willing to accept it. I'm just stating looking at the bigger picture, I think Avri I would like you to consider the fact that it's not in the - maybe perhaps not in the best interest of our work team as a total. And, I'm asking you to consider that. I know that this letter came out recently. I know that you're initial reaction came right away after that, and I'm just asking you to consider that. Consider the bigger picture here.

Wolf-Ulrich Knoben: May I add something? Wolf speaking.

Ray Facet: Yes.

Wolf-Ulrich Knochen: So okay, maybe I did not again understand Avri, why you would like to resign really. Because - so I - what I was - have faced here was okay. (Trudy) was sending out a paper, obviously got some elements from staff side regarding staff's decision with regard to participation and Disclosures of Interest, so that paper's on the table. So, we could have different opinions on that, that's what I understand.

So, I really do not understand why this paper is made - is that the main reason that you are going to resign? So, that's what I really don't understand.

Avri Doria: Yes. It's that I've always felt that when in a Chair or even a Vice-Chair role, while it was okay -- and sometimes in the Vice-Chair it's been fuzzier for me - - where it's okay for a Chair or Vice-Chair to state their opinion...

Wolf-Ulrich Knochen: Yes?

Avri Doria: ...and then to let the discussion move on, that they can't become combatant, or champion, or whatever for a position on the topic. On this one, I intend to be - or I want to be a - call it a combatant. Call it a champion. Call it whatever, for a particular point of view that I don't back down on, unless I'm convinced that I'm wrong.

Whereas a Vice-Chair, I put out my opinion. If the rest of the group, other than me, says, "Yes. We like it," then as Vice-Chair I figure I need to go along with the majority, because a Chair or Vice-Chair should not be breaking the consensus.

On this one, I want to include - put myself in the position of breaking the consensus if we get to a point where I haven't been you know, convinced that I'm wrong.

Wolf-Ulrich Knochen: Yes, well...

Ray Facet: Sorry, but I have a suggestion of how to proceed here, okay. My suggestion is we acknowledge the fact that Avri has stated a deep concern, that we appreciate the concern, we understand the concern. She doesn't want to co-mingle different responsibilities, which we all respect and appreciate.

I will suggest that we discuss what the issues are before formally accepting Avri's resignation of her Vice-Chair position. Let's have a discussion, and if Avri still feels compelled, at next week's meetings -- I believe we are scheduled to have a meeting next week -- compelled, then it will be accepted.

Wolf-Ulrich Knoben: Well, I...

Avri Doria: Okay. For me - as long as I don't function in the Vice-Chair at all today.

Ray Facet: Correct.

Avri Doria: Okay.

Wolf-Ulrich Knoben: Yes. Accepted.

Eric Brunner-Williams: Accepted here.

Julie Hedlund: Ray, this is Julie. I just want to point out that we actually didn't have a call scheduled as yet for next week.

Ray Facet: Oh, yes.

Julie Hedlund: And, the Policy staff are actually in meetings next week.

Ray Facet: That's right. I did see that note. So okay, so two weeks. So you got two weeks.

Avri Doria: Right.

Ray Facet: So, you're going to be - after today Avri, you will unfortunately still be the Vice-Chair for at least two more weeks.

Avri Doria: Okay. So I will accept it, and I think you. I thought it was just going to be easy to say I quit.

Ray Facet: No, not that easy.

Avri Doria: That insofar as this topic is concerned, I am not Vice-Chair.

Ray Facet: That is accepted.

Wolf-Ulrich Knoben: Okay. Yes.

Ray Facet: And, we will allow you to perhaps change your mind on that as well.

Eric Brunner-Williams: Ray, if I could get in the queue.

Ray Facet: Yes. Please, Eric.

Eric Brunner-Williams: Thank you. This is Eric Brunner-Williams. Avri's point is only half of the issue of distinguishing between advocacy and non-advocacy by a person with a particular responsibility. So, Avri can as an individual arrive at an awareness that she has - if engaged in advocacy, and then seeks to end the conflict of interest between being a - in this case a Vice-Chair and being an advocate for a position.

The other aspect of this though is the response of the Chair or Vice-Chair, or any other person with a particular responsibility, to the statement from one or more members of the group that that person has - is now engaging in advocacy and should consider resigning, or the group should consider removing the person from the responsibility - from the particular reasonability

during the consideration of the issue for which that person has taken an advocacy position.

So, I think it's a two part thing. It's - one is the Avri resigns. The other is someone says, "Avri, you should resign." Both of these need to be taken - address to some degree of clarity. Thank you.

Oh and Avri, I wasn't picking on you, honestly.

Avri Doria: No. No. I see your point, and yes there is a (unintelligible)...

((Crosstalk))

Ray Facet: Okay, yes. Okay, I think that is a fair point, and it's noted for the - you know, for the recording - for the record. Is there not any - Ron Andruff is not on the call?

Avri Doria: I thought he was.

Wolf-Ulrich Knoblen: You're right.

Woman: Yes. Ron's on.

Ron Andruff: I'm sorry. I just was getting off mute. I am on the call, (unintelligible).

Ray Facet: Okay. Good. Great. Okay. I suppose you don't have anything to add to what's already been said on this particular topic?

Ron Andruff: That's correct. Yes. That's correct.

Ray Facet: Okay. Thanks.

All right, with that said I - let's jump into this document. This is Chapter 5.0, Statements of - Disclosures of Interest. Does everybody have a copy of it? Do they have it open? Are we able to all follow along together here?

Man: Yes.

Wolf-Ulrich Knoben: Yes.

Ray Facet: Okay. So first of all, I want to again state for the public record that what we see here in terms of edits from staff are at the request of, me as the Chair, to receive such edits, suggestions, et cetera. So, I just want to make sure that is clarified. We saw it and asked for it, so that's why we have it.

Now more to the substance of it. And, I believe I did so as the Chair representing the interests of the work team. Whether people agree or not, that was the intention. So now, where we're going here is what in - you know, under B where it starts to speak about relevant party - I'm just going to go ahead and read it for the record so anybody listening can kind of follow along.

It says, "Relevant party: An individual who participates as a member of a GNSO group." And new edited language as follows: "ICANN staff assigned to support a GNSO group are not 'relevant parties' for the purposes of this section. And, I am making a presumption, that it is that sentence Avri, that you are having difficulty with.

Avri Doria: Actually to be honest, I really only have problems with one word in it.

Ray Facet: Okay.

Avri Doria: And that is the word not, between are and relative parties.

Ray Facet: Okay. All right. Okay, so I get - I think - let me just cut right to the high level. Again, I'm also trying to think about people that might be listening to this. I

think this at a high level, if I can use a metaphor -- if that's the right term, metaphor -- I think Avri where you sit -- and if I'm putting words in your mouth, you just speak up -- is you know, what's good for the goose is good for the gander. If others have to - that are participating in this have to submit - this is one level. So, one level is sort of procedural. So if others in the work group have to do it, then why should ICANN staff not have to? That may be a question.

And then the second one is -- let's be realistic -- those in ICANN staff support roles may in fact along the way influence the group, and therefore for that reason should be completing a Statement of Interest. Are those pretty much the two prongs that are causing you discomfort, Avri?

Avri Doria: Primarily the second is that there's no such thing as a fully disinterested party, no matter how much they set themselves off to be that way. And the - yes, the Disclosure of Interest, the Statement of Interest does indeed help in that.

Ray Facet: Okay.

Avri Doria: The goose and gander, yes. I believe that is a general principle, but it - the prime motivation is the deeper significance of what it means to participate, and the fact that we all participate in our own roles and responsibilities. And so just like one could argue, "Well, the Chair's neutral, right? The Chair's mandated to be neutral, so they're interests really don't matter anymore because their participating neutrally." And no, the Chair's participating in a different role and responsibility. And that neutrality is part of their role and responsibility, but we still need Statements or Declarations of Interest.

Likewise with the staff, they are participants. They have a different role and responsibility than the Chair, the Vice-Chair, participants, observers, guests, what have you, that all have different roles and responsibilities, but that they do have roles and responsibilities and are members. So, the fact that their

roles and responsibilities are different does not relieve them of possible conflict of interest in the advice and help they offer.

Ray Facet: Okay. I'll go to the group. Ron, do you have anything to - at this point, or...

Ron Andruff: Yes, I do.

Ray Facet: Please. Go ahead.

Ron Andruff: Thank you. I think the - you know, Avri's point is well taken in the sense that you know, we're trying to derive principles here that will manage and guide the way forward with ICANN, the institution. So, all of that makes sense to that degree. Where I found myself siding with the argument last week was on the - when Avri used the example of her - the different hats she wears in different environments. But, I've been thinking a lot about that over the course of the last week, and the question that came to my mind, and perhaps this might help kind of resolve this a little bit, is that I would ask how many full-time staff members or staff support people who are on the calls with us, how many are moonlighting on other jobs?

And if the answer comes back, well 99.9% of staff are all you know, 100% with ICANN, and that's what they do, then I would think that the ICANN confidentiality agreements and the employment contracts that they sign would provide for the issue that we're trying to address here, and that is that someone is actually - has a very specific agenda but they're not disclosing for whom they are actually doing that work.

So what we're trying to get to is a place where people will disclose an interest if something new happens, or they'll make a statement of interest that shows exactly where they stand so that we can all understand when someone's speaking, for whom they're speaking. So the - you know just to put that into a nutshell, it's really - for me, I'm starting to think that staff - very few staff or support staff that we have on these calls are moonlighting; so therefore, they

are obligated by contract with ICANN as it stands today, so I don't see why we would have to force them to fill out an SOI or a DOI. Thank you.

Avri Doria: Can I comment? This is Avri. Can I comment?

Ray Facet: Yes.

Avri Doria: Okay.

Eric Brunner-Williams: Eric (unintelligible)...

Ray Facet: Okay. Avri, then Eric.

Wolf-Ulrich Knoblen: And me then.

Avri Doria: Okay. I can wait until everyone has gone.

Ray Facet: Okay.

Avri Doria: But, I wanted to comment on the notion of moonlighting and that.

Ray Facet: Okay. Go ahead Avri.

Avri Doria: My comment on moonlighting is that it is not just jobs for hire. It could indeed be volunteer activities. It could be any number of things, so it isn't just that. But even if it's only 1 in 100 that basically has to say in response to, "So, has anybody changed their SOI," and the SOI from staff was all, "I am ICANN staff, and that's all I care about -- period --so that's in there.

Even if it's only 1 in 100 that says, "Yes, you know I'm also participating as a volunteer in the IGF working group on Democracy in multi-stakeholder organizations." And/or, "I also you know, organize events for," you know, this

kind of other group. If it's only 1 in 100, it's easy. They only have to do it. But, we need to hear from that one. Thank you.

Ray Facet: Okay. Let me just encapsulize that. So I'm just staying with your example; I'm not debating it. I'm just trying to understand it, okay. So if there are 100 instances and 1 out of 100 - 1%, you're suggesting that it's to the benefit to capture that - make sure that 1 is captured, even though the other 99 are nowhere near what the issue is with why we're discussing this at all.

Avri Doria: Yes.

Ray Facet: Even if it's just one?

Avri Doria: As I say, if it's 99 that say, "ICANN is my only interest in terms of any of the topics being spoken here," but there's one who does have a broader interest, I believe for the public good of what we are doing, that interest needs to be stated. And, it's especially true of anyone that would be a contractor within ICANN staff.

Ray Facet: Okay. That's okay. I understand it. Thank you.

Eric.

Eric Brunner-Williams: Thank you, Mr. Chair. I differ with Avri because I'm concerned about the promotion of ICANN staff to participant. And, I have a different example. I'm going to again go to the security area where the security staff for a variety of reasons have or attempt to use some degree of expertise and standing based upon a claim of expertise to influence the actions of working teams, working groups which (arised) in the past out of the constituency process, and in the present out of the work team formation.

When an ICANN staffer in a security position who is supporting a security related work team offers an opinion on something which is fundamentally an

issue before the stakeholders, I don't want that opinion to be taken as anything other than the statement of a opinion by a non-stakeholder. So my concern here is promoting ICANN staff inadvertently into the position of becoming participants in the stakeholder sense. And I think that I've spoken to this sufficiently long. Thank you.

Ray Facet: Thank you, Eric. Understood. I do remember that email that you sent, so I'm able to myself provide context to it - what you're saying. You have a way of writing sometimes colorful emails that can stick in somebody's memory, so thank you.

Wolf.

Wolf-Ulrich Knoben: Yes. Thank you, Ray and others. So, I'm coming a little bit up on a different side than Eric did, but maybe I approach the same point he was pointing on. Though, that if - for me though, the question what does it mean, participation, and then - a staff participant in that sense. And I would like to come back to that what I stated one or two meetings before. So, my understanding is the biggest - for me, the biggest impact, or the biggest influence participants or anybody - let me say anybody who participates or is attending a meeting of a working team could be shown by voting.

So - and there is a kind of voting on each team. On the Council level we have votes, and in this case although, the Chair is not a neutral guy because he is entitled to vote. And also in other groups, we can have voting about you know, the Chairmanship and about other things (unintelligible). So for me, that is a point how can we - or who can really influence - impact the result of the - definitely with the result of what is the outcome of (unintelligible), and that's by voting. So, that's my understanding.

And, I don't see that in that way that staff should be (appointed). It should be - should take this (road) to get the voting rights, so - and they don't have it at the time being. So when I read the working groups - this document about the

working groups, which was from - which was done by the other group, (so they - all the) functions from staff are described in that way that (he) should support the working teams in a neutral manner. So, that's (unintelligible). In that respect, I cannot - well, I cannot - couldn't agree to Avri. Thank you.

Ray Facet: If there are not any other comments...

Ron Andruff: I have one Ray, if I may. It's Ron.

Ray Facet: Please, Ron. Go ahead.

Ron Andruff: Yes. I think there was one distinction that Avri made in the clarification to my comment that I'd made a note of, and that was you know, consultants. ICANN staff - we always refer to staff and consultants kind of in one - as one group. We throw them all into one box. But perhaps, we can - if we - that's the distinguishing factor, that pursuant to what Wolf just - the statement Wolf just made about how staff have been defined, perhaps we say that staff are covered under the employment agreement, but consultants would need to be filling in a DOI and also respond to - or a SOI and respond to the DOI question when the meetings begin.

Consultants being the type of person that may be doing the moonlighting, whereas staff would be more obligated to their you know, primary position. Would that be a way forward Avri that might give you more comfort?

Avri Doria: I - only half. Is this a certainty? Is that better than nothing? And, perhaps there is a middle way to find wording on staff also, because I do believe that there are occasions that staff do participate in other organizations, either on behalf of -- and I mean I've seen it -- either on behalf of ICANN or in their own personal standing, as all of us. I mean, all of us participate here as volunteers. Some of us may be getting paid for it by a job, but I think by in large, that ends up being half or even less than half, and the rest are just

participating in their own capacity as volunteers because they care about the subject.

I've participated in other things like the IGF, like a multi-stakeholder advisory group where there has been ICANN staff members -- not necessarily members of this policy group we're talking about now. Be that as it may, who have participated in their individual capacity, furiously participating in multi-stakeholder governance issues that would reverberate inside the work we're doing. So, I'm not comfortable. I could possibly be comfortable with something that said it - consultants, yes. And in case any staff member has an outside interest that bears any effect on that. For example, if they are participating in the IGF or the OECD, or any of the other many organizations that ICANN sends staffers to, to participate, and very often the rules of those organizations deposit them volunteers participating in their individual capacity.

So given that reality, given that I've seen that reality - it's the reverse of the reality I'm in, where I'm a sometimes contractor for the UN who participates in this in my individual capacity. And you know, the UN doesn't pay me to do it. So if there was some way to make an intermediate statement that sort of said, "Okay you know, we don't need a blank statement from all of them saying, 'I work for ICANN. I pledge my loyalty to ICANN, and I don't care about anything outside what ICANN tells me to care about.'" We don't necessarily need to see a statement like that, but I think we do need to see a statement.

And as to Eric's point of elevating them to participants, his example shows that they are participants and they do have interests that are wider than the interests of this. And it's not a promoting them to participant, it's a recognizing that within their role and responsibility, while the participation modality may be different, they are participating.

Ray Facet: All right. Well, I think that's a good lead in to Section 5.2.3 of this document, which again for those listening, I'm going to go ahead and read this, where it says, "ICANN staff assigned to support a GNSO group are expected to work in the interests of ICANN and the broader interests of the Internet community, and not for any other purpose or interests."

So, I interpret that to mean that it is in fact declaring that ICANN staff - now it doesn't say consultants here. I don't know if we're going to need to you know, massage that however. But, it is saying outright that ICANN staff support assigned to a GNSO Council or a GNSO group are expected to work in the interests of ICANN. In other words, that's their interest. So, I want to toss that out. And...

Avri Doria: I've got my hand up again.

Eric Brunner-Williams: Me too.

Avri Doria: Do you want to go first? (Unintelligible)...

((Crosstalk))

Liz Gasster: Actually, it's Liz. I'd like to jump in to at some point.

Ray Facet: Yes. I just want to make one more statement, then let the discussion flow. In that I've heard a couple of times that we've heard about ICANN staff being neutral, I'm reading that and I'm not getting neutral out of that. I'm reading that ICANN staff support assigned to a GNSO group are to work in the interests of ICANN and the broader interests of the Internet community, but I'm not seeing neutral. That's my point. Okay, go ahead.

Avri Doria: Okay. Was I first?

Ray Facet: We've got Avri. We've got Liz.

Avri Doria: And we've got Eric.

Wolf-Ulrich Knoblen: And me, Wolf.

Liz Gasster: (Unintelligible) Avri and Eric, and just...

Ray Facet: I'm not on your handy-dandy thing there, so I can't see you.

Avri Doria: None of us have it.

Ray Facet: Okay.

Avri Doria: We're just using - we're just pretending that we have it.

Ray Facet: Oh, okay. Or kind of like I'm pretending I have a phone. Good. All right. Okay, Avri go ahead, and then who's next after that?

Avri Doria: There was - it was me, Eric, Liz, Wolf.

Wolf-Ulrich Knoblen: And me, Wolf.

Ray Facet: Okay.

Ron Andruff: Good.

Ray Facet: Go ahead.

Avri Doria: If I was Vice-Chair and I was telling you the order in which people names came up, that's what I would've said.

Ray Facet: Fair enough.

Woman: Okay.

Avri Doria: In terms of this statement, the key phrase here is broader interest of the Internet community. When I'm participating at the (IEGF), I believe I'm doing it as a volunteer for the broader interest of the Internet community. When I'm participating in the IGF, though I get paid there, I believe I'm doing it in the broader interest of the Internet community. When I participate in ICANN, I'm doing it - yet each of these has a different notion of what the broader interest of the community might be.

And as such, that then becomes again an interest. In other words, when I participate in things, if I'm participating in an (IEGF) workgroup that has a certain charter, and I'm participating in the policy group here, I need to be declare that I'm paying attention to both. You know, if I'm doing - because those two have interests that may indeed impact each other. Now the (IEGF) doesn't ask me what my interests are, but ICANN does. And so therefore, it's important to say. So, that's why I think - and the broader interest.

If somebody was working purely in the interest of ICANN, which means they're following orders and they're doing nothing beyond what upper management tells them to do you know, or what they as a group sitting around the table decide is in the best interest of ICANN, perhaps we're in that area. But as soon as we bring in broader interest of the Internet community, we're in a very broad field. That's what we're all doing.

Ray Facet: All right. I just want to make sure I understand that. I just want to make sure I understand that. So I'm sorry, but Avri - so, you're saying that if it simply was ICANN staff assigned to support a GNSO group are expected to work in the interest of ICANN, and not for any other purpose or interest, you would be feeling more comfortable?

Avri Doria: Yes. I would still have to add a clause.

Ray Facet: All right. All right. But you - so you - but you would be feeling more comfortable? So, we're starting to - we're getting - we're moving.

Okay, next is Eric I believe?

Avri Doria: Yes. It was Eric, Liz, and then Wolf.

Ray Facet: Okay.

Eric Brunner-Williams: Thank you, Mr. Chair and Ms. Non-Chair - that's non-Co-Chair. What I'm concerned with is the issue of the Chair or any member of the work team detecting and causing the (unintelligible) to be discarded. The attempt by a staff member -- and seriously, not the friends that we're working with here -- but staff who don't have self-imposed or management-imposed limitations on their conduct, and I'm still thinking of the security area.

So, I'm trying to solve a problem of how we ensure that no matter how boisterous or strong willed a staff person may be, how hard they attempt to impose their will on a group, that there is the means for the least presuming participants in the group to raise the flag that this is coming from a non-participant and need not be taken into account. That the staff don't vote. They don't form consensus. They don't formally influence the outcome of any question, and the Chair may discard their input at any point, or which any member of the work team may raise the issue that non-participants are engaged in advocacy within the work team.

So, that's the issue that I'm really trying to ensure that there is a mechanism to discard improper advocacy. I think that's all I wanted to say on this issue.

Ray Facet: All right. So I just want to interject, and I know Wolf is up next, or Liz. I need to interject here. I want to answer that a little bit. So in my own experience here with this work team, for example, I feel very comfortable that staff has only provided opinion when asked. So, I think that is an obligation inherent

with the Chair to do exactly what you just said Eric. Where - I'm already familiar because - maybe because this is all new and staff is being instructed and has good training practices in place right now because it's all getting off the ground, but I'm pretty comfortable staff support has been instructed to only be in a support capacity to these groups.

Now I wasn't involved in the security group, and I don't know what's going on there, but in my world here with this work team, I feel really comfortable about the fact that they've been assigned and told, "Your role is to support and only provide opinion when asked," because that is my experience. I'm just being honest.

Eric Brunner-Williams: Yes.

Ray Facet: Meanwhile, when I have asked...

((Crosstalk))

Eric Brunner-Williams: (Unintelligible)...

Ray Facet: Yes. But when I have asked, it has come in, and then I think it's up to the Chair at that point to decide is it you know, substantive to what the work team is discussing, because it was asked of the group.

Okay, go ahead Eric.

Liz Gasster: Hey Ray, it's Liz. I'd really like to go next now if I could.

Ray Facet: Okay. Liz, please go ahead.

Liz Gasster: Yes. And, I'd really like to respond to both Avri and Eric.

Ray Facet: Okay. Yes, go ahead.

Liz Gasster: And, this is my personal opinion. I think the Legal staff has legal issues in addition to some of the - I believe your issues are substantive. I think that they're more maybe policy issues than legal, so I just want to state my personal opinion with the recognition that legal may come back I think with some legal issues we also have to wrestle with.

But so, my personal opinion though is that both Avri and Eric have very - I agree with both of you I think. And let me say what I think is happening here. I think we're all bringing in our heads to this discussion different examples of staff behavior that -- and consultant behavior for that matter -- that are illustrating what we're saying. And Ray, I think you made a - actually, very good description when you said, "Well, I'm not seeing it on this call." And frankly, I think you know knowing Julie as I do, and my efforts, and Ken's and Ron's; in this context we are probably really attempting to be neutral and find the right path with the group.

But, I want to recognize a couple of other situations that are inevitable that I think we're all - there is nuances to this that I think - and I think my overall message is that I'd like to go back to Legal and express some of my takeaways from this discussion and see whether we can add them to you know, SAM's deliberations actually, and come up with a way forward.

Eric in your case, you know I'm well aware that there are security experts hired by ICANN, both internal employees if you will, and probably consultants too, who are hired sort of to be security experts. And so when they get on a call -- and they've been on calls that I've staffed too -- you know they have opinions that are pretty strong, pretty overt, and I would consider advocacy on you know essentially any level.

They have a different - they're attempting to play a role on staff that is different at least from the role that Julie and I typically at least attempt to play. Whether we're successful at playing it all the time, or you know whether

latent, or subconscious, or semi-conscious view points, or ethical views come into play is you know conceivable.

But, I think I really understand this issue of how staff wears different hats at different times and that they're amorphous, and that they are not even necessarily clear in the - and that consultants behave similarly. We have consultants that we hired to be neutral or attempt to be sort of neutral policy staff, like what I think we're trying to do for the most part. But, we also have consultants who we hire collectively as an organization who are experts.

So, I do believe the solution lies in addressing these issues in a more nuanced or granular way than what we've proposed to date.

Ray Facet: This is Ray. I just - I hear that. I thank you, Liz. I'm just trying to point out here that the edit that we got here in this document does not go there and say that staff assigned to GNSO groups are to be neutral. It says quite frankly, that they're expected to work in the interest of ICANN. And then now understanding Avri's language that she has a problem with, which is the and - and the broader interests. So just discounting that for a minute, I'm concerned about what does somebody new to ICANN say? What are they looking at? How do they understand ICANN staff's role?

Well, they got a Statement of Interest for everybody else, and they're looking at the ICANN staff people and they want to understand what their interests are, and we're looking for something in the rules of procedure to be able to educate any third party that can go, "Oh, I understand. ICANN staff, they are working in the interest of ICANN."

It's not that they're expected to work neutrally. I imagine it can go - there are (many) different ways. Like you said, in this group it has been very neutral. In other groups, it may not. In all cases, if you decided - if you...

Liz Gasster: From a policy development context, I think it (unintelligible)...

((Crosstalk))

Ray Facet: Well, if you decide that the staff supports for this group should be neutral, that's your decision in the interest of ICANN. If there was another group going on that feel that it's different, it doesn't - it's still in the interests of ICANN. Now, that's what this language is saying to me, and I'm not seeing neutral here. I think it's saying quite clearly any third party that's staff assigned are expected to work in the interest of ICANN. And you know, full stop. And, I think everybody could understand that.

So anyway with that said, I think I don't - who's up next here? Wolf?

Wolf-Ulrich Knoben: Yes. Thank you. Well, just let me step into that point. Well, when I read this (trial) copy (assumptions), well I understand it's made by lawyers, so it's lawyer's language, so to find a way out in case there's some difficulty with it.

So I also understand the formulation are expected to - it's really weak. Well, I'm also expected to do something and to take some position, so - but if not, what does it mean? So, it doesn't say okay, they'll really do it, but they are just expected to do that. So, that's what I understand this lawyer's language and this little bit you read to me, so.

So, I would like to see that this text is consistent with what was worked out in the working group guidelines which have already been accepted by the Council. And in the guidelines, there is this talk of about the different functions of the participants of working teams - the Chair, Vice-Chair, staff - and staff as well, and there is outlined that the staff has two functions. One is Secretariat and the other one is a support function, providing assistance in a neutral manner. So, why not really to do it that way and to make it compliant is that text.

So, elsewhere - in this regard, I can really understand that somebody has some problems with the text proposed by staff.

Ray Facet: Where is that Wolf? Where is that Wolf where you found language that already spoke to staff support...

Wolf-Ulrich Knoben: That is in the working group guidelines. You know, this is...

Ray Facet: Our working group guidelines?

Wolf-Ulrich Knoben: No. That is for what the other team of the PPSC did.

Ray Facet: Oh.

Wolf-Ulrich Knoben: You know, the working group guidelines. So, they drafted a document which was accepted, and that's in this - in one of these paragraphs it's very detailed described.

Ray Facet: All right. That raises another point that I did want to raise, which is you know is this under our venue? Is what we're discussing, staff support to a working group, under our venue? I mean, this is the rules of procedure - the GNSO Council rules of procedure. I mean, I could - we could narrow - I mean, I could make a case that we shouldn't be narrowing this discussion to as it pertains to staff support to the GNSO Council, because there's this other group out there that is vetting out and working diligently on how a working group should be handled.

So, I'm going to go ahead and toss that out there.

Avri.

Avri Doria: Yes. What happened, and - interesting problem to solve. What happened is that that other group, since this group was developing an (omnibus) SOI/DOI

set of procedures, that other group accepted as -- and especially since they were released in time -- accepted for inclusion the SOI/DOI rules as has been decided by this group so that we would have one common set of SOI/DOI rules for anything GNSO did.

So if we decide to sort of get specific, although I suppose we could add clauses that sort of said, "And in the case of the GNSO Council, and in the case of," and therefore, within them make them specific and not make it (tentatively) applicable to the other working groups. In fact, these issues came up not in terms of the GNSO Council, but in terms of other working groups (unintelligible).

Ray Facet: Yes. So my questions is what Wolf read, has that been accepted, adopted, or what have you, or did they walk away from it until...

Avri Doria: No. That's what basically brought me back to my first question. That group I believe -- I mean, I have to go back and check all my facts -- but that group I believe accepted that the work for SOI/DOI by this Committee was done, except for the one paragraph on the list of people who had contracts with ICANN, but that all the rest of it was done. So they accepted, for inclusion by reference, the work that this group had done as their SOI/DOI, because we had spoken much earlier between the groups. I don't know if you remember, but it was months ago. And about did we need to have two? Did we need to go back and forth? And what they decided to do was basically accept this group's determination on SOI/DOI and include it by reference.

I think it was included by reference; although, I think Ken at one point did discuss including it by (poll), and I don't remember what happened in that respect.

Ray Facet: Well...

Julie Hedlund: Ray, this is Julie. If I could add to that explanation.

Ray Facet: Yes.

Julie Hedlund: Avri, that's absolutely correct. I just would make a note that - so the working group guidelines, once they are approved by the Council, and they are not at this stage yet, yet approved, that working group is still proceeding to make some changes, and there's a recent version they're discussing I believe. Wolf I'm sure could clarify this as well. But you're absolutely right, they do include these SOI/DOI procedures by reference, and when the working group guidelines are complete, I believe they will be included as a chapter in the GNSO operating procedures along with the work that's being done by the PDP working group as well, which also is not complete.

So, all these things I think are germane to the work of the GNSO operating procedures, which is under the egis of this particular work team, or at least had been as assigned by the OSC.

Ray Facet: Okay. So if I understand it right, the good news here, if we want to call it that, is the fact that the working group working on the working groups has not yet completed either? Nothing's been - no, not adopted yet by the Council, right? And in our case, the SOI has not yet been adopted by the Council, barring Avri's little distinction that maybe parts haven't been.

What I'm trying to get to here is a point that Wolf has raised here, which I think is pretty significant. We have a contradiction going on. We have here saying that staff is expected to work in the interest of ICANN, and we have another work team that has language that says ICANN staff is to be acting neutral. Is that correct?

Wolf-Ulrich Knoben: Yes.

- Ray Facet: Okay. We've got to have resolution to this. And, I think we need to go back to staff and say, "Okay, look. We've got a conflict - a contradiction here - what appears to be a contradiction. Which is it?"
- Avri Doria: This is Avri. We may want to have a joint meeting of the two groups that are talking about the same issues as well.
- Ray Facet: Not a bad idea.
- Liz Gasster: Yes. This is Liz. I agree. I think it should be in some way conveyed to the group in that - I mean, the staff's happy to play the liaison in terms of conveying to the group in you know a joint call, but not you know to try and resolve it in any way. That right?
- Ray Facet: All right. So but I think we can all acknowledge in this work team that there is a contradiction. Is that - do we have consensus on that?
- Ron Andruff: Agreed.
- Ray Facet: Okay. All right. So, now it's a matter of how do we remedy the situation? And what I'm hearing is it to be a good idea to invite that other work team into a call or them invite us; however it goes, so we can flesh out the contradiction?
- Avri Doria: Yes. I would suggest the two Chairs talk.
- Ron Andruff: Yes. This is Ron. I was thinking the same thing. I'm not sure if there's a whole lot of dialog that has to happen here, other than more a point of clarification. And if the two Chairs talk and say, "You know gee, there's a lot of areas of lack of clarity," then I fact we could conjoin the two working teams.
- Ray Facet: What would the two Chairs do here in this - would we just be acknowledging the fact that there's a conflict - a contradiction?

Avri Doria: If I could raise my hand again.

Ray Facet: Yes.

Avri Doria: I think you guys would first of all talk about you know, the fact that there's an apparent - you know for example, I didn't shout out that I agreed and there's consensus, because I'd really have to go back and read the exact words to know for sure whether there is a full blown - you know, a contradiction, or whether it is nuance-based. So, that's one thing I would need to check. Second you know, working for the benefit of ICANN you know, can indeed be interpreted as neutrality being one way it's done in working groups.

So, there's lots of stuff. But basically, I would think that the two of you would talk, and then if you felt that there was something that could beneficially be resolved by the two groups together, you're the ones that are empowered to schedule meetings and would be able to schedule a meeting of the two groups together to work on this as an issue.

Ray Facet: Okay. That's pretty good direction. Who is the Chair of that work team, may I ask?

Wolf-Ulrich Knoben: It's (unintelligible)...

Ray Facet: I'm sorry?

Wolf-Ulrich Knoben: I lost the name.

Avri Doria: I remember, but the name has slipped me at the moment, and I'm very embarrassed about that.

Julie Hedlund: It is Jay Scott.

Wolf-Ulrich Knoben: Yes. Jay Scott. Yes.

Avri Doria: Yes. Jay Scott.

Liz Gasster: And then you know, Jeff Neuman is the PPSD Chair, because I think that group might be done. But yes...

Julie Hedlund: No they're not actually Liz, because they - I just saw a message that went to the group that they're to consider the latest version of the guidelines. So, I think they're not done.

Avri Doria: Yes. Marika sent us a message.

Julie Hedlund: Right.

((Crosstalk))

Liz Gasster: Then you could send the language about the...

Julie Hedlund: Yes.

Liz Gasster: Just cut and paste the staff role...

Julie Hedlund: Yes. I'll...

((Crosstalk))

Julie Hedlund: I'll send the language as Avri had suggested -- thanks Avri -- to this group, and also confirm with Marika who is the Chair, and so you can all see what the language is and compare the two.

Ray Facet: Marika's the Chair?

Avri Doria: No. No. No.

Julie Hedlund: No. No. No.

Avri Doria: Marika's the staff support.

Julie Hedlund: Marika would know. I'm sorry.

Ray Facet: Okay. That's okay.

Avri Doria: No. Jay Scott is definitely the Chair of that one.

Ray Facet: Jay Scott. Okay. And someone's going to send around the language that Wolf was citing?

Julie Hedlund: Yes. This is Julie, Ray. I will send the language around.

Ray Facet: Wonderful.

Julie Hedlund: Both the language, and I'll compare it - send the comparison language from the SOI document.

Ray Facet: Okay.

Avri Doria: In fact, we have a meeting of that team at 8:30 today.

Ray Facet: The one with Jay Scott.

Glen DeSaintgery: Yes indeed. (Unintelligible).

Avri Doria: Work team call. Yes.

Glen DeSaintgery: Yes. That's what I thought. I was just going to take myself off mute to tell you that. Thanks, Avri.

Avri Doria: Thanks Avri.

Ray Facet: Okay. Well, happy that - do you plan - are you going to be on that call, Avri?
And, do you plan on raising this?

Avri Doria: I was going to be on that call. I hadn't thought about that (unintelligible)...

Ray Facet: Are you going to resign first or anything? Or...

Avri Doria: Oh, thank you very much. Now you're going to pick on me.

Ray Facet: I'm sorry.

Avri Doria: It's quite all right. I deserve it.

So, that meeting is in less than an hour. I could certainly bring it up as coming out of this meeting - is that there is a whole - isn't a (unintelligible) word I really want to use, but there's a whole issue over SOIs/DOIs and the role of staff as neutral or non-neutral...

((Crosstalk))

Ray Facet: I think...

Avri Doria: ...that we may have a contradiction between their work and their work.

Ray Facet: Yes. I'm curious where that language came from for that work team. I mean, did that language come from staff as well? You know in other words, I want to - or did they just write that language on their own...

Avri Doria: Yes.

Ray Facet: Yes. I'm just kind of curious, because I can - we can certainly say the source of our language has come from ICANN staff. You know, and that means what - Legal, right. So, we all know that. So - or Legal at least looked at it and blessed it and all that. So, my point - so that we know our source, so I'm curious also what their source is. Was it - where did it...

Avri Doria: The source to that language was a combination of the people in the group themselves...

Ray Facet: Okay.

Avri Doria: ...of which I was a member.

Ray Facet: Okay.

Avri Doria: And the contribution from staff in this case, I think mostly in the suggestion from Ken Bour, who was helping us - I think it was Ken on this one who was helping us in terms of writing it all down...

Ray Facet: Okay.

Avri Doria: ...and finding errors in our logic and such as that, and suggesting solutions. But you know...

Liz Gasster: So yes, he was the staff person early on, and then it shifted over to Marika where it's been for (unintelligible)...

((Crosstalk))

Avri Doria: Okay, yes.

((Crosstalk))

Avri Doria: I think the bulk of the writing was done by Ken.

Ray Facet: Okay, wonderful. Okay, so...

Avri Doria: But that's right. It was (unintelligible)...

((Crosstalk))

Ray Facet: All right, so we've got a plan of action here, and we've identified the issue. There are multiple layers of the issue here going on, but the first way I think to tackle it is let's understand you know, the genesis of the two different approaches you know, and go from there. Does that seem like reasonable there everybody?

Ron Andruff: Yes.

Wolf-Ulrich Knochen: Yes.

Ray Facet: All right. So, we're on the hour here. Just a few more minutes. For our next call as well, we've - you know, there's this issue going on with regards to remaining - it's going on this lingering issue of how Disclosures of Interest are being handled you know, in practice. And in talking to Chuck Gomes, I guess what's really part of the problem here is that the language itself is reading to mean that people are expected to write their Disclosure of Interest - to document their Disclosure of Interest. I was under the impression that that was not the intention. The intention was simply to poll it or disclose it - verbally disclose it at the time of a meeting, et cetera.

So, am I correct in what I thought the intention was supposed to be on Disclosure of Interest?

Avri Doria: I don't think so. This is Avri.

Ron Andruff: And this is Ron. I'll get in the queue.

Ray Facet: Ron, please go ahead.

Ron Andruff: No. I think it's unfortunate this happened this way, because there seems to be a lot of confusion, and you and Avri and I exchanged some emails on it last week, or I guess may be this week. I'm not sure when it was.

Ray Facet: Yes.

Ron Andruff: But, the long and the short of it is that I always saw the SOI as a written document that's enshrined within ICANN, and anyone can look at my SOI anytime they want. My DOI is a disclosure of an interest that has arisen as of yesterday. Something came up, and now we're on a call and I'm about to speak, so prior to the - as the roll is called, just as you did today, "Does anyone have a Disclosure of Interest," no one responds, and then it gets enshrined. The Chair says there was no Disclosures of Interest.

If you recall the genesis of this was to really try to get a little more transparency within the ICANN community. It has nothing to do with anybody who's standing outside the community. But those of us who are inside the community, many being consultants, one day they're working for this client, the next day they're working for another. And so what we're trying to do as a work team was to establish a kind of rule of law that would enable anyone to be the Sheriff if they found that someone was being untrue about their disclosures or untrue about their status, then they could call that person on it. And then, we would have some remedies to clarify that.

And, the point was that Sheriff had no bullets in the gun. The only weapon that he had was one of embarrassment. So, we're hoping that through this action of actually calling for Disclosures of Interests before the meeting would happen, that people would say, "Yes. I have one," knowing that if they didn't

make that disclosure, they could well be caught at some future point, and that embarrassment would be too much for them, also loss of credibility.

So, the idea of the DOI being a written form to me makes absolutely zero sense. Why would we have an SOI written and a DOI written? It's the same - it would be the same document. So, a statement is something that is a much longer-term issue - longer view about what - who I am and what I'm doing. And, my DOI reflects directly - my verbal DOI reflects directly on the topics we're discussing today.

So, I don't know how this thing went sideways. It's a shame it went sideways. But right now having a written DOI and a written SOI is complicated, it makes no sense, and I don't want to have anything to do with it in terms of having my name attached to that, because that was not where I was coming from. Thank you.

Avri Doria: Can I comment?

Ray Facet: Fair enough. Yes, Avri.

Avri Doria: Yes. I tend to see the history of its genesis in the script totally differently. And in fact, remember very clearly of conversations where people were talking about being able to declare at a meeting, "I have my SOI and DOI on file." And that therefore because people were complaining about the process of everybody having to declare DOIs every time they got up to talk, especially at live meetings, would be over burdensome.

And, that the difference between SOI and DOI was not one of temporality, in terms of you know all the sudden this just came up, but rather was a difference of quality in that the SOI defined a general set of my work, who I work for, et cetera, et cetera; whereas, the DOI was specifically related to issues, not to participating in a workgroup. And I most definitely remember us has having discussed them, and talking about them being written and talking

about there being possibilities of how both of them would be you know, displayed on Web sites and whatever.

So, I have a completely different recall than Ron on this.

Ron Andruff: Avri with respect, we can go back and we can dig up all of the documentation - all of the transcripts. But the point here was simply this -- and you hit a very critical point -- and that was when we speak at the open microphone. And that was the point, that it would be a verbal declaration. "This topic I'm about to speak on," that was where - that's where we got into that issue.

Ray Facet: Well...

((Crosstalk))

Ron Andruff: The written part was always another story.

Avri Doria: (Unintelligible) with all due respect, we have to go back, because we both remember it differently. So with all due respect to you too, we need to go back.

Ray Facet: I just want to say as the Chair, I recall Ron's recollection. I just want to say as a Chair, it is what I recall. I recall Ron's recollection.

Wolf, is there anything you have to add on that?

Eric Brunner-Williams: Yes. I'm (mic'd) up.

Wolf-Ulrich Knoblen: No. No. For me don't - nothing else. Well, I would be happy if you could compare the text - both texts next time, and (unintelligible)...

Ray Facet: Yes. I think that's right, and I agree with Avri that that should be done. I do agree with that.

Eric.

Eric Brunner-Williams: Ray, can you hear me?

Ray Facet: Yes.

Eric Brunner-Williams: Thank you. I actually think that Ron's memory is correct, but going back to the original documents is a good idea. However, Avri you phrased what I consider to be -- for me anyway -- beyond the central issue here, which is that the SOI is a general document. And, the question (within the SOI are general in nature. So, the idea of having an SOI for each group or each activity seems to me - is just that very (unintelligible) generality of the questions suggested in Section 5.3.3, which haven't been accepted, but they are the model.

And, it's also at odds with the very notion of the SOI being a general Declaration of Interest, and the DOI being - whether it's temporal or specific in terms of substantiate issue, a different kind of Declaration. Thank you.

Ray Facet: Okay. So, I think we all have our little bits of slightly maybe different variations of recollection. But at a high level, again I do recall Ron's recollection of what the purpose was now. With that said, the language has somehow got produced. Again according to Chuck, and you know how detailed Chuck is, the language itself that was adopted by the Council reads to be that the Declaration of Interest is in fact to be documented. That's what it reads.

So I think you know quite honestly, you know I try not to get too bogged down. I mean, almost to a fault here, I admit, on procedure too much. But you know, if we're you know more or less as a group, willing to say you know maybe that the language as it is - as was adopted was not the intent. While there is one person obviously, they're not clear on that point.

You know (unintelligible)...

((Crosstalk))

Avri Doria: (Unintelligible). It's not that I'm not clear. I disagree.

Ray Facet: You disagree. And then, there's also this secondary issue. Well, it's already been adopted, so therefore, it's outside the scope of our work team and should go into this new Committee that is about reviewing implementation. So, we start to spiral into different levels of issues. And of course, we'll go back and check the record, and we'll try and decipher what the work team was trying - what its intent was as best we can, although we don't really keep minutes, and you know letters of the law language that we can you know point to, but we'll do the best we can to try and interpret what did we mean when we did it. You know, that was then. This is now.

But what's complicated it folks is the fact that they have been adopted. Understand this. It's been adopted, so now the question becomes is it within the GCOT's venue, or is it within the venue of this implementation review work team? You see?

Avri Doria: Can I add a wrinkle?

Ray Facet: Yes. Add a wrinkle.

Avri Doria: The NCSG was very upset at me and other participants in this for having allowed the whole stuff to go through on you know the non-tangible interests, and without having fought harder. So if topics are re-opened, some (unintelligible), I believe as an NCSG Chair Exec Committee, I'd have to bring up reviewing other aspects of it, so now we have three aspects. We have Eric's aspect of SOIs for all working groups. We have DOIs related to the intangibles of being a Professor. And, we have the written DOI.

So, we're starting to accumulate quite a few things that people would like to question if we re-open this.

Ron Andruff: This is Ron when the queue opens.

Ray Facet: Go ahead, Ron.

Ron Andruff: It comes back to a question you asked just now. Do we have - is this in our prevue to actually address his now? And, the answer is that it didn't go out the way we intended, so yes, we have a - it is within our prevue because this was not the intent of the majority of the working team.

Now with regard to the other elements, I - my understand was always again - SOI, I have one on file. So, I have one on file for this working team, and I didn't file a new one for the VI working group. It's the same one. Nothing had changed. So, I didn't file a new document, the document was on file. SOI, I would then verbally bring up. So, I think it - Eric's issue is less of an issue. The issue that we had different intent -- and we can go back and look at the record and clarify that -- is the reason that we can bring this forward and ask the GNSO to make that amendment.

But the third element, in terms of whether or not a Professor should - you know, that whole thing, right now this new document, or this new draft actually shows - is recommending we take that out. But, I could go either way with that, but from my point of view, I don't think that we're re-opening the whole thing for a brand new debate. I think that the issue was that we submitted something and it didn't get translated appropriately. Thank you.

Avri Doria: And as you know, I disagree with that.

Ray Facet: I - that's noted.

Avri Doria: And in fact, I'd like to say that we all - and I mean, I've often let things go through and I've read it afterwards and said, "Oh, my. How did that happen?" But, we all did review the documents and we all did say, "Okay."

Ron Andruff: Yes. But Avri with all due respect...

((Crosstalk))

Avri Doria: To say that it went out wrongly...

Ron Andruff: ...sometimes we're too close. You know, I know when I write a document, I have to put it on the side for three or four days and then come back and look at it again, because I'm so close to the document I don't read it anymore. I don't see those things, you know.

Avri Doria: But, the point is we did send it on.

((Crosstalk))

Avri Doria: And, I'd love to see it changed. Don't get me wrong. I love the idea of not writing them, although I think they're entertaining to write. But - and I think it's fine to change it. I just think that you know, we have to take responsibility. We approved the document we sent forward. We read it. (Unintelligible) OSC read it. Discussed it. Sent some stuff back to us. We sent some stuff back to them. Yes, we're ready to go. And then it got sent on.

So to say - you know, to say that somebody -- and I wonder who the somebody is -- somebody didn't represent what we said correctly. It's us. We read it. We reviewed it. We said it was okay, and we said send it on. (Unintelligible)...

((Crosstalk))

Ron Andruff: Yes. But I could also say you know...

((Crosstalk))

Avri Doria: (Unintelligible) they sent what we wanted.

Ron Andruff: Well, I know. But, I could also say that taking responsibility means if we've identified that the intent is not what was - what we intended, then that is taking responsibility. And right now what this situation is causing some difficulties in progressing on really the substance of work being done. It's impacting that, and you know so there's a level of - when we talk - there's different levels of responsibility here.

And while we could punt it...

((Crosstalk))

Avri Doria: (Unintelligible)...

((Crosstalk))

Ron Andruff: ...now we could punt it to another group and say, "Okay. Well, we've messed up and now you guys fix it," or can we...

Avri Doria: That's not what I'm saying. That's not what I'm saying. What I'm saying is it's a silly little paragraph. It takes five minutes to write. It's no big deal. Again, as with the staff issue of not wanting to be able to write an SOI, I start to wonder why don't people want to write these paragraphs. What are they afraid of? And so, what I'm suggesting is let the policy play out as it's been written and approved, and then in time we'll see what the practice is. The other group will see what the practice is...

Ray Facet: Wait. Wait. Which policy? Which policy are you referring to? Let it play out?

Avri Doria: The written DOI.

Ray Facet: Yes, but we're getting the feedback on what it is.

Avri Doria: Well, that's because - but it's a - so why don't people don't want to write it?

Ron Andruff: No. But Avri, it's cumbersome. It's - but this is - the old - our objective was not to add layers of difficulty to the dialog that happens to create ICANN policy. Our objective was to streamline the rules of procedure under the new house environment. So now we've got a - we're in a cumbersome element that people are confused about. They don't understand the difference between a written SOI and a written DOI. Why are we -- the guys who created it -- agreeing to allow that community confusion to exist and allow it to play out. It makes zero sense. Zero sense.

An error happened. It's about correcting the error. And, I think when the error is corrected, everyone will be very grateful and we'll move on and get on to the work at hand.

Avri Doria: I don't (unintelligible)...

((Crosstalk))

Ron Andruff: But, I think we're splitting hairs here to say, "Well, let's just let it play out and see how it goes." This makes no sense.

Ray Facet: Okay. All right.

((Crosstalk))

Ray Facet: Wait a minute. Wait a minute. Wait a minute please. Please. I think I've got two positions here. Okay, I understand Ron. I understand Avri. I'd like to hear Wolf and I'd like to hear Eric's positions.

Wolf please.

Wolf-Ulrich Knoblen: I'm sorry. Sure.

Ray Facet: It's okay.

Wolf-Ulrich Knoblen: No. I don't have a different view than Ron's, so I could follow what Ron was saying.

Ray Facet: All right. So, you're following Ron's view point.

Wolf-Ulrich Knoblen: Yes.

Ray Facet: Eric.

Eric Brunner-Williams: Same.

Ray Facet: I'm sorry?

Eric Brunner-Williams: The same.

Ray Facet: The same. All right. I've not at one time in this entire work team taken anything to a vote, and boy I'd like to keep that record intact. So, I'm going to throw out the notion that - of the - really, the active members of this work team on this - and on this call today I'm hearing three out of four in favor of reviewing this work based on the fact that the language did not reflect the original intent. I will qualify this.

I will ask - Julie, I suppose ICANN staff can tell me who to go back and do the best they can, while understanding we did not purposely - the idea is not to keep such documented records to - you know, to be able to now to go back in time and try to you know, weigh one - this isn't a legal thing. This is - okay. We tried to keep the best records we could, so I'm just going to ask for a cursory look to see if there was anything that absolutely indicates that we absolutely meant to have DOIs documented as well as SOIs.

And in absence an ability to find something to absolutely state in the affirmative that we meant for DOIs to be documented in addition to SOIs, I'm - absent our ability to find that, I'm going to ask that this work team move forward and discuss how to repair this and get language in front of the OSC for them to review, and perhaps then from there I get in front of the Council to get this remedied.

Avri Doria: I will probably object, especially since you put it in the language of absolute positive...

Ray Facet: Yes.

Avri Doria: ...no doubt language.

Ray Facet: Yes.

Avri Doria: And so, you've made it almost an impossible task. You've (unintelligible)...

((Crosstalk))

Ray Facet: And my reason for that...

((Crosstalk))

Avri Doria: ...and prove that they were wrong.

Ray Facet: Yes. My reason for that is because we're not keeping records for the purpose of this, what we're looking to do here, which is to go back...

Avri Doria: Okay. Okay. As I say, I'll probably maintain an objection to it.

Ray Facet: All right. I just wanted to explain my reason for saying it that way, because it's...

Avri Doria: This is why I knew I had to quit as Vice-Chair.

Ray Facet: Okay. Yes.

Anyway. So with that, I'm putting that forward and I'm looking - I hear - I've heard one objection. There are three others on the call. Does anyone else have an issue with proceeding that way?

Ron Andruff: No, I do not.

Ray Facet: Do we all understand that if by chance Julie comes back with a discussion transcript of some kind, or something that says, "Look, guys. You said this was to be documented," then we understand the ramification of that.

Ron Andruff: It is what it is. You know, the point here - I think it's been well discussed, and I - you know, I don't - I have respect for Avri's defending position. But I think at the end of the day if we're going to try to streamline the activities here of work teams, this is the only way for us to be able to do it. So, that's the next step for us. And if you agree with that Chair, then I agree we go forward in that way.

Ray Facet: Great. Thank you very much.

So I just want to point out one last thing, and then I'm going to try and adjourn this call here, which is you know, when - Avri, when I asked you to be - requested you to be the Vice-Chair, I never made that request thinking that you couldn't have opinions. I just - it never even crossed my mind, to be perfectly honest with you. So the fact that you're able to - you're dissenting or showing opinion or strong opinion, opposite of maybe someone else who might have the opposite strong opinion, I'm not sure - I'm still not getting the bearing on why you feel you need to - and I'm just - I'm asking you to think about it. You have explained yourself. You think that the Vice-Chair has to be neutral at all time.

Avri Doria: No. I didn't say that.

Ray Facet: Okay. All right. Well, I just want you to think about it. I'm not...

Avri Doria: The Vice-Chair can express an opinion, but not champion a point of view. Not argue. Not get combative.

Ray Facet: Where is - if I didn't - if I just heard of ICANN today and never heard of it before, and I wanted to understand how these processes work; working groups, Chairs, Vice-Chairs, where is that written down?

Avri Doria: It's actually pretty much written down in the working group requirements.

Ray Facet: No. What you just said, that the Vice-Chair is allowed to have an opinion, but not champion. Where is that?

Avri Doria: Actually - that is actually - Chairs and Vice-Chairs - I mean that's something that we did document I believe in the working group guidelines. And that's just the practice that I've brought in from other places that one has to find a balance between a Chair being totally neutral Chair and a Chair being taken out of the group of people...

((Crosstalk))

Ray Facet: Well, I'm talking about the Vice-Chair right now. I'm not trying to (unintelligible), but I am talking about the Vice-Chair at this moment.

Avri Doria: Vice-Chair and Chairs are in my mind the same in terms of roles and responsibilities, except that one answers to the other and is standing in background. But in terms of neutrality and positional - in terms of placement, I believe they have to operate in the same manner.

Ray Facet: All right.

Avri Doria: That one may just be my belief, but I think that's also what we documented in the guidelines.

Liz Gasster: Yes. It's Liz. It's 6.1.3 Purpose, Importance, and Expectations of the Chair.

Ray Facet: Can you read that?

Liz Gasster: Sure. "The Chair is expected to assume the neutral role, refrain from promoting a specific agenda, and ensure fair treatment of all opinions and objectivity in identifying areas of agreement. This does not mean that a Chair experience in the subject matter -- it should be matters -- cannot express an opinion, but he or she should be explicit about the fact that a personal opinion or view is being stated, instead of a ruling of the Chair. However, a Chair should not become an advocate for any specific position."

"The appointment of co-Chairs could be considered and is encouraged that the way they share the burden, provide continuity, and rotate their participation in the discussion. And in addition to the certain circumstances, the co-Chair may - Chair, " oh, sorry. Let's see, "The CO is the - the Chartering Organization may decide that it must appoint a completely neutral and independent Chair who would not participate in the substance of the

discussion. In such circumstances, the Chair would be appointed by the Chartering Organization.”

Ray Facet: Yes. In all that - I heard all that. All I heard was Chair. Is that for the Vice-Chair too?

Avri Doria: Always been my assumption that Vice-Chair operates under the same rules as the Chair.

Ray Facet: That’s what I’m trying to understand. Is it an assumption or is this part of - I just want to understand. Is it...

Wolf-Ulrich Knoben: There’s something - it was speaking something in the working group guidelines just now with regard to co-Chairs and Vice-Chairs, but nothing with regards to any neutrality or (unintelligible). But, it’s just appointing - so the role of the Vice-Chair is, “Appointing a co-Chair or Vice-Chair may facilitate the work of the Chair by ensuring continuity in case of absence, sharing of workload, and allowing the Chair to become engaged in a particular debate.” That’s (one).

Ray Facet: Yes. So my interpretation of that, unless I’m mistaken, is that in the case where the Vice-Chair has to step into the Chair’s role, all those things that Liz just read are to be the case. If the Chair - Vice-Chair is not able to because of a championing of it versus simply an opinion or what have you, then the Vice-Chair would have the ability to say, “I’m sorry, Chair. I can’t step in that role.”

But, I don’t see where what Liz just read applies to the Vice-Chair directly. Even though I understand Avri, that you believe it should, I’m just trying to understand this.

Avri Doria: Yes. No, I understand. I understand where it doesn’t say it there explicitly.

Ray Facet: Okay.

Avri Doria: It's the way - it's the way I believe...

((Crosstalk))

Ray Facet: I just want to make sure I'm doing things correctly.

Avri Doria: ...I have to do the job.

Ray Facet: All right. So, I just want to make sure I'm doing things correctly. All right. I understand.

All right, so I'm not prepared to accept your resignation yet.

Avri Doria: I got that.

Ray Facet: All right. Based on what we just vetted out. Now that said, in two weeks if you still feel strongly about wanting to resign, it will be accepted.

Avri Doria: Okay.

Ray Facet: And, I hope that you choose not to.

With that said, you know we have some additional red lines here in this document that was sent today by Julie. We will not get to them today. It has to do with some language that has been suggested to us at our request. Again, getting to that list, which is a whole new hornet's - a whole other hornet's nest for us to get into and discuss the list of contractors by ICANN and how it relates to what people can disclose as their Statement of Interest.

So, I suppose let's punt that one to the next call. We've got kind of our work cut out for us here between now and two weeks, right?

Wolf-Ulrich Knoben: Yes.

Ray Facet: I would ask though that - you know, if it becomes - before the next call that we decide that we are going to tackle this issue of the language as it pertains to Disclosure and this being documented, and we decide okay, we haven't found anything to say that we shouldn't be doing that, I want to make that a top priority so we can get that in front - you know, get that in front of the OSC and get it in front of the GNSO Council, okay.

And by the way, either one of those two bodies could decline it on the basis of it wasn't our responsibility to do it. Either one of them. So, just food for thought as well.

Avri Doria: I should throw (it out on the OSC).

Ray Facet: Good. You can fight the fight there, too.

Avri Doria: Exactly.

Ray Facet: All right. And Avri, you'll be surprised. I respect you for it, okay.

Julie Hedlund: Ray, I just want to let you know I did send around the language - the two different sets of language to this list, so Avri you'll have that for her call.

Avri Doria: Okay.

Ray Facet: Good. Thank you.

Ron Andruff: Chair, I have to apologize. I have a hard stop, and I've been kind of waiting for this to kind of wind down.

Ray Facet: We're wrapping up Ron. We're wrapping up right now. If there's no - any other business, I'm going to ask that we adjourn the call and end the recording.

Avri Doria: Thank you. Bye-bye.

Eric Brunner-Williams: Thank you very much.

((Crosstalk))

Ray Facet: Thank you folks. Thank you everyone.

((Crosstalk))

Wolf-Ulrich Knoblen: Goodbye.

Ray Facet: Bye-bye.

END