Policy Process Steering Committee (PPSC) Policy Development Process (PDP) Work Team (WT)
TRANSCRIPTION
Thursday, 15 September 2011 at 13:30 UTC

Note: The following is the output of transcribing from an audio recording of the Policy Process Steering Committee Policy Development Process (PDP) Work Team (WT) meeting on Thursday 15 September 2011, at 13:30 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 understanding the proceedings at the meeting but should not be treated as an authoritative record. The audio is also available
http://audio.icann.org/gnso/gnso-ppsc-pdp-20110915-en.mp3
On page:
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Participants on the Call:
Jeff Neuman - Registry Stakeholder Group - Work Team Chair
James Bladel – Registrar Stakeholder Group
Wolf-Ulrich Knoben- ISPCP Avri Doria – NCSG
Alan Greenberg – ALAC
David Maher - gTLD Registry Stakeholder Group
Paul Diaz - Registrar Stakeholder Group

ICANN Staff:
Marika Konings
Margie Milam
Gisella Gruber

Absent apologies:

Alex Gakuru – NCSG

Coordinator: Thank you, the recordings are started. All lines are open. Please go ahead.

Jeff Neuman: Okay is Glenn or Gisella or someone there to do the roll? All right it sounds

                  pretty quiet. Well this is Jeff Neuman; this is the PDP work team call. It is

                  September 15. Welcome everyone. And I will - since I don't have the call list I

                  will announce the people that I see on Adobe and then if anyone else is on

                  they can announce themselves.

I see Alan Greenberg, Avri Doria, James Bladel, David Maher, I see Gisella on Adobe, Jeff Newman, Paul Diaz and Marika Konings and Margie Milam. Is there anyone else on the call?

Wolf Ulrich-Knoben: Yes, Wolf Knoben. Hi.

Jeff Neuman: Hi Wolf. Okay, anyone else? Okay Gisella is on the call but for some reason we can't hear here. I'm sure she'll try to work out that problem. Everyone, welcome, again.

Hopefully this will be the last call that we are going over the comments and then we will have a call next week as well to discuss the final-final report which the plan right now is to go over these last few comments in the public comment tool.

Marika should - and has already started to update the final report and should be able to, assuming no huge major changes out of today's discussion, should be able to update that and get that out by today or late today, which means that next week on the 22nd we can go over the final report.

And again just to remind you the goal is to get the final report on the GNSO Council agenda for October 6 which means that we would need a motion to adopt the report as well as the final report. We'd need to get that to the Council on the 28th or by the 28th.

And I fully expect that even though it's going to be on the agenda for October 6 I fully expect it to actually get deferred until Dakar. I mean, in theory in would be great and it's possible to get adopted on the 6th but my guess is given the substance and given the amount of time and groups that would probably want to read it more thoroughly my guess is that someone will push it off to the Dakar meeting.

And that being the case we will have a presentation to the Council on the final-final report for the weekend of the Dakar meeting with the intention of voting on it on the Wednesday council meeting. We will not be planning on having a formal workshop on the PDP like we have at some of the previous meetings.

That said we will give the presentation to everyone in this group - the same presentation we're doing to the Council - with the expectation that you all will present it to your applicable stakeholder groups, constituencies, advisory groups, to keep them abreast of what's going on and to make sure that they are fully familiar with everything in there.

So that's the plan. Alan, I see your hand raised. Any questions on this?

Alan Greenberg: Yes, I just want to reserve a couple minutes today to talk about the motion that Tim has recently put on the table - on the Council table regarding changing the RAA to require registrars to put a mailing - or a street address on their Website and give it to ICANN.

Because I think this raises the issue of the fact - the PDP we've been talking about and I want to make sure that everyone on this group has a similar or we can come to a single position on how that would have to be handled under either today's rules or the new rules because I think it's going to be talked about perhaps significantly next Thursday. Thank you.

Jeff Neuman: Okay. Let's reserve some time at the end for that.

Alan Greenberg: Yes.

Jeff Neuman: Hopefully we'll have time to get to that. Okay anyone else have anything to add to the agenda or to any questions on what I went over? Okay good. So then let's go cut to the public comment tool. And if I remember correctly there's really only like three or four things that we need to discuss and most

of them are just kind of some wording changes that are recommended by the registries.

And so if you go onto the public comment tool - I am on Page 18 of 20. It starts with Annex A, Section 1, required elements of a PDP. And the recommendation from the registries is that...

Wolf Ulrich-Knoben: I'm sorry, Page 15, sorry, 15?

Jeff Neuman: Sorry, no...

Alan Greenberg: Eighteen.

Jeff Neuman: Sorry it's actually 19, I was wrong, it's 19 of 20. Sorry about that I was actually looking at 19 but my cursor was on 18. It is Page 19 of 20. It starts with Annex A, Section 1, required elements of a PDP. And, Marika, did you have a comment?

Marika Konings: Yes, this is Marika. I just wanted to highlight very briefly that in the previous comment, which was a very lengthy one, that we covered in the last call was actually I think the last sentence that we didn't specifically address - it's probably a non-issue because the sentence - the comment relates to - is - relates to a provision that doesn't come back in the new PDP.

So I think it's easy to address in a report and just requires that we update the fact that indeed we didn't get a clarification from Legal on that specific issue but it's not really relevant as we're not keeping that provision in as-is. So I just wanted to highlight that. And as Jeff said I've started updating the report so you'll see that specific section back in the report as well. So if you have any concerns about that, you know, feel free to suggest changes or raise that.

Jeff Neuman: Yes and we'll - thank you, Marika. And we'll point that out next week on the 22nd when we go through the report. Okay so getting back to Page 19 what

the registries recommend here is that we should provide a separate document on the full report to lay out the recommendations.

And, you know, maybe include it after the executive summary. So I just - let me go to Avri and then I'll turn it to Marika.

Avri Doria: Yes, hi. I think that's a great idea. I think it happens a lot already. I wouldn't suggest the extra document; I think the section that gives, you know, the list of recommendations that has shown up in so many, you know, final documents already that the staff has created is a great thing - it should happen all the time. But, yes, but I don't think a separate document - I think the more separate documents we've got, you know, the less likely they are to be read.

I also think that there's value in perhaps having cross referencing in that section that says Recommendation 1, blah, blah, blah and then it gives a pointer to where in the document a person can go and read, you know, the extended blah. Thanks.

Jeff Neuman: Okay. Marika, let me turn that over to you to just get your reaction on that.

Marika Konings: Yes, this is Marika. I'm a little bit confused as to what is intended here because if you look at Section 2, Section 2 is basically just the recommendations; just, you know, going from 1 to 48 and a little bit of extra language I think at the end covering what is in the rest of the report.

So I'm not really clear - are they talking about that they only want the recommendations that cover the Annex A in a separate section or grouped together? Is that what is intended?

Jeff Neuman: I think they - it just may be a separate link or something that you could just - if all you wanted to do was read the recommendations and didn't want to print out the entire report, if you wanted it separate in the part is maybe if you

could just have a link to a separate here's just the recommendations. I think is - I don't think it was as complicated as just the recommendations relating to certain elements...

Marika Konings: Right, well what is easy to do is just put just the recommendations and nothing more in a separate annex and make that annex available as a separate download which I think we've done with the report as a whole as the annex is quite long; that might be an easier way to just look at the recommendations...

((Crosstalk))

Marika Konings: ...a separate annex in addition to what is currently in Section 2.

Jeff Neuman: I think that would solve the registry comment. Okay anyone disagree with that? Okay in the next...

Alan Greenberg: No I'm not disagreeing but I'm not sure I'm agreeing either because I'm a little confused. I think I have to go back and look at exactly what Annex A, Section 1 is because from the title of what Annex A is it doesn't make any sense. But I'm willing to accept it until I go back and look at the original text and the report.

Jeff Neuman: Okay well the report is on the right side of Adobe...

Alan Greenberg: I know but it's really tiny and hard to scroll through and find things though.

Jeff Neuman: Yes, it's kind of hard, yes, I agree. Okay so subject to that we'll follow that course of action and if next week we have an issue we can...

Alan Greenberg: Yes.

Jeff Neuman: ...then. All right on Section 3, creation of an issue report, in Annex A the registries recommend changing the part of the sentence that says, "...and more specifically the role of GNSO as set forth in the PDP manual," To, "...and more specifically the role of the GNSO as set forth in the bylaws," as the bylaws are authoritative, not the manual.

So are there any questions on that one? All the registries - the registries are just making it more, I guess, legally correct which is that the manual we're providing is kind of a guideline but it's really the bylaws that are the authority.

So when you say - when you're referring to the GNSO's role you really should refer to the authoritative source...

Alan Greenberg: Yes, that sounds reasonable.

Jeff Neuman: Okay. Paul agrees. Anyone disagree with that recommendation or have any other comments? Okay then that brings us to the last one which is actually a little bit more substantive and take - might take a little longer to kind of get through.

It says that they recommend changing a sentence on (unintelligible) so it says now, "Except in cases where the Board believes that a PDP is urgently needed before requesting a PDP the Board should request the GNSO to provide information regarding the availability of community and staff resources as well as what GNSO activities may have to be delayed to add a new PDP."

"If the Board requested an issue's report - sorry, an issue report - for what they consider an urgent need the Council within the timeframe set forth in the PDP manual shall initiate a PDP unless resources are not available. No vote is required for such action."

"If the Board requested a PDP for a matter that is not considered urgent they should provide guidance regarding what other GNSO activities may be delayed if necessary and make suggestions with regard to how additional resources may be found."

So all of the text that is in bold are - is the text that the registries are recommending be added. And I can tell you a lot of this is as a result of - shoot, it just escaped me - the Board - I think it was a result of the Board making a couple requests before - either at the San Francisco meeting or just shortly before the San Francisco meeting where they basically expected us to drop everything, initiate a discussion on certain topics and we as the Council, A, didn't know what they meant and, B, kind of said okay if you're going to do that then, you know, we need some staff resources.

And I think at one of the Council meetings staff got on the call and said we don't have any resources to give unless you drop something. So the Council and the community was left with kind of the conundrum of saying well wait a minute, we didn't ask for - to do this work; the Board is requiring us to do this work.

And not only do we totally have to do this work but basically were told that we have to drop other things. And so that really, you know, registries want to make sure that if that happens in the future that the Board, A, understands, you know, that we have a resource constraint and other things are going to have to wait and they can help provide some guidance.

So that's just some background on the request. And let me go to Avri.

Avri Doria: Yes, I think as I understand it as it stands I'd be very against this because it's really a request to the Board to micromanage the GNSO Council. I think the GNSO Council is the one that has to balance its work load. I think the GNSO Council sometimes has to say oh dear there's a lot of work; we have to work

harder ourselves as opposed to oh my god we don't really want to work that hard.

I think certainly the GNSO Council should be able to make a request to the Board for more staff resources after it's analyzed the request and it's made. The GNSO Council should be able to make a decision of how to prioritize if it really can't find the wherewithal to do the work.

But to ask the Board to micromanage the working schedule and the priorities of the GNSO's work just, you know, does not seem like a good idea. I mean, the GNSO is also becoming more and more of a (no-op) in the process of making policy recommendations as time goes on. And I think this would lessen their relevance even further if they were being micromanaged in this way. Thank you.

Jeff Neuman: Okay so, Avri, before I go to Alan and James and then Margie, when you say you're against this, I mean, you would be against all of the bold text or is there anything of the bold text that you could live with?

Avri Doria: I'm certainly against the - I don't think, first of all, that the Board is going to - I think it's fine for them to ask the Board to say what is the degree of urgency of something; I think that's fine, you know. I think they can do it or not do it; I don't think they need to do it. I don't think the Board is going to pass anything.

But to ask the Board to certainly indicate how important this is to them and what kind of time scale they need it in is fine. And I think they've always done that. I think they've said, you know, we need this within six months because the community is pushing us to make a decision on X.

I think, though, the part that has to do with having them provide guidance on whatever, I mean, they don't even necessarily know the full degree of GNSO activities. So for them to do this would mean that somebody would have to

present the whole prioritization scheme and everything else that the GNSO has done and what all its work items are and everything else.

For them then to give advice and say well, you know, we think that this work you're doing on Y is less important than the work on X so, yes, drop that. And that's micromanagement. So that part I'm against. Certainly asking them to tell you when they need it and how - and why it's critical, you know, why it's important is part of their request and is a reasonable thing.

But I think also that there's real room for interaction between the GNSO and the Board. And then if the Board sends down something that doesn't give the GNSO Council enough information to make a decision, to decide what it's doing, it sends messages back.

I think there's, you know, one of the things that is lacking is this, you know, you tell me to do something well I ask you why and you explain why and I ask you when and you explain when. And so, you know, but to require them to micromanage the process is what I think goes too far.

Jeff Neuman: Okay. Let me jump to Alan.

Alan Greenberg: Yes, thank you. I'm against this also and I'll give a number of reasons. First of all I think it's rather curious that the registries who have asked us or suggested - and correctly so - that we carefully distinguish between the GNSO and the GNSO Council use the term GNSO here. I'm not sure how you ask the GNSO anything or expect an answer back from the GNSO other than through the Council.

Ignoring that for the moment I agree with Avri it's micromanaging. The Board has certainly asked the GNSO for all sorts of things in the last number of years; none of them have been PDPs. The Board has never initiated a PDP as far as I know - and I'm not sure it's likely to - but it never has.

So we're dealing with a situation which has never come to existence. If it ever does come into existence I find it hard to believe the Board doesn't consider it urgent if they've gone to this - the extreme of doing this.

The PDP - the start of the PDP process would be an issue's report. There's going to be plenty of time to dialogue with the Board prior to coming to the GNSO actually taking action on the issue report.

So I would not go any further than saying if the Board, you know, triggers the PDP process under this bylaw that they must in parallel initiate a discussion with the GNSO Council ensuring that, you know, or, you know, going - and I'm not quite sure what the words are - but going into some detail on exactly what the problem is and issues of resources and such.

So other than a discussion with the GNSO Council in parallel with the issue report being created I wouldn't go any further than that. I think it's a situation which is not likely to ever happen; if it does it's likely to be considered urgent so the provision doesn't apply. And it's micromanaging as Avri has pointed out. Thank you.

Jeff Neuman: Okay thanks Alan. Let me go to James.

James Bladel: Hi, Margie has her hand up for a while, Jeff, so I'll give her a shot if she wants to go ahead of me.

Jeff Neuman: Okay, Margie, do you want to...

Margie Milam: Sure, sure. This is Margie. From the staff perspective I think I agree with all the prior comments from Avri and Alan. And I also kind of, you know, worry about putting staff in a position where, you know, there's this Board request and the first step is obviously the issue report, and somehow we're in a sense asked not to work on it because of the prioritization, you know, work hasn't actually been done yet.

If something like that were to happen I know that, you know, that you'd have Liz and, you know, David Olive trying to find every, you know, means possible to make sure that we do have the resources to satisfy the Board request.

And I just want to caution that, you know, it would put staff in an awkward position if somehow the recommendation was drafted in a way where we - our hands were tied and we can't do what our Board has asked us to do. So that's just kind of a, you know, an additional comment beyond what Alan and Avri said.

Jeff Neuman: Okay thanks, Margie. Let me go back to James.

James Bladel: Thanks Jeff, James speaking. I think I agree with - I'm sorry, Alan and Avri - maybe for different reasons. I'm concerned that if we formally define a mechanism for the Board to declare that something is urgent and to schedule it within the GNSO Council's calendar that suddenly everything or nearly everything that they feel any kind of external pressure on will become urgent.

I don't think that controlling the inputs of work is the answer to the GNSO prioritization problem. I think that that's really more of a internal management issue and I'm concerned about giving other structures the ability to kind of, you know, give them levers of control into that process as well.

I think that the answer - and I think perhaps Avri touched on it in her first response or perhaps her second - is that, you know, the Board and the GNSO have to coordinate, have to get along, have to be - acknowledge each other's workload and calendar. And I don't know it's appropriate to hard code that into the bylaws. Thanks.

Jeff Neuman: Okay thanks, James. And I put myself in the queue to kind of I guess just give one more shot at trying to reconcile the registry position and the (others) that have been expressed on this call.

Because I've been looking at this - I can see definitely the points you guys were raising on the kind of micromanagement aspect and maybe this text is too much in that direction. But also drawing on what Alan said and Avri said about, you know, there should be some communication between the Council and the Board and that hasn't happened.

And granted, Alan, exactly what you said those weren't PDPs and in fact we've never had the situation where the Board has actually required an issue report and initiated the PDP in that kind of way but putting that aside it could happen in the future.

And the exact example now kind of came to me as to what happened and it was with regard to a motion that passed in Cartagena by the Board on their own initiative without talking to Council. It was hey we need to define what consumer trust is or, you know, a bunch of terms that they wanted, you know, for essentially evaluating new gTLDs as required in the affirmation of commitments.

And, you know, again let's ignore the actual example and I may be misquoting it but that's kind of what I remember. And they said being in Cartagena which was December they said oh the GNSO needs to finish this by March and the San Francisco meeting.

And the very first Council call of the year we got on and notwithstanding what you said, Margie, about the staff would find resources, actually what happened is Liz got on the call - on that very first Council call - and said hey, guys, we don't have the resources for this so you, the Council, need to drop something that you're working on so that we address what the Board wants.

And that got a very visceral reaction from the Council and the community as to say wait a minute, guys, we didn't ask to do this work, we have no idea what the deadlines are and frankly we have no idea what the Board meant in their resolution; we have absolutely no idea, no one communicated with us, no one even asked us if there was any resources.

So pulling all the comments together if we could put in some guiding language and maybe it's not necessarily hard coded in the bylaws but some guiding language to say wait a minute if the Board does want to initiate work they should have this discussion with the Council to figure out to, A, discuss the scope of it and, B, figure out if there's resources to do it.

And then putting aside all the other stuff about what they consider urgent - oh and also including, you know, in that scope of what they need, why they need it in that kind of deadlines and, you know, what the timing is and all that stuff and putting aside the micromanagement language of why, you know, if it is urgent then do this, if it's not urgent then do that.

What does everyone think of just a concept that it seemed liked Alan and Avri were okay with of just providing that communication mechanism as kind of a recommendation, not necessarily hard coded in the bylaws but providing that recommendation?

So let me go - Alan's next in the queue and if anyone else wants to address that.

Alan Greenberg: Yes, I just wanted to go further on something that you said and Margie initiated. I'll point out that the President and CEO is a member of the Board and a voting member of the Board. So what does the concept mean that there aren't staff resources available when the person who controls the staff and is fully responsible and has the tools to change staff resources says this is something the GNSO must do?

I'm presuming it says that means this is the highest priority thing we can figure out if indeed there aren't going to be staff resources available. So I think the staff resources issue is somewhat moot. And, yes, it might require dropping something else but it's really, you know, that's part of the overall staff allocation mechanism, you know, that you're going to have to slow down on something else if you don't want to add more power to it.

The volunteer one is a more critical one because it's not something that the Board has any direct control over. And the only way that's going to be addressed, I think, is through dialogue because in general if you look at it in most working groups these days it's not GNSO members - Council members that are doing the work it's people drawn in from within the constituencies within the community and I think that's going to take discussion to make sure it happens and happens quickly if indeed it's that important that the Board goes through this path.

So I'm supporting what you say. I think we need to put in some words saying in parallel the Board must initiate a discussion and we can try to fine tune those words. But I don't think there's any other way to address it other than that. Thank you.

Jeff Neuman: Okay thanks Alan. So let me turn it over - Marika has got a comment and maybe can address what I had said and what you had chimed in on as well. Marika.

Marika Konings: Yes, this is Marika. It's more a question of clarification because I see that both you and Alan agree on putting in some language. But my question would be where should that language be? Should that be a separate recommendation that comes up in Section 2?

Because the PDP manual, as I understand it, that's more directed at what the Council should do, what, you know, GNSO community should do as part of the PDP it's not directed to what the Board should do.

So if it's not in the bylaws, you know, presumably a place where we can put it there's a recommendation there. I'm hoping that the Board reads it and - or alternatively write it into the PDP manual but make it more than an action item for the GNSO Council and say, you know, if the Board - or at the moment the Board requests a PDP the GNSO Council should engage with the Board and, you know, discuss its reasons or, you know, resources or whatever issues that need to be discussed as part of that.

Jeff Neuman: So could I ask a question just so we can look at the - the actual text that's there - do you know what page of the report that's on right now? Without the - sorry, without the recommended changes from the registries so if we were just looking at the text that's in there right now do you know what page that's on?

Marika Konings: That's on - yes, that's in Section 4 on Page 43 of the report. What it currently says is just the Council may initiate the PDP as follows. A Board request, if the Board requested an issue report the Council within the timeframe set forth in the PDP manual shall initiate a PDP. No vote is required for such action. That's what it currently says.

Jeff Neuman: Okay. All right let me go to Margie.

Margie Milam: Yes just a caution about having a requirement that there be a Board discussion because, you know, the Board meets, what, once a month or maybe once every six weeks, I'm not sure what the exact schedule is. So they would have a resolution at one point in time. But when would they have this dialogue with the GNSO Council? The Board itself doesn't have the ability to really do that.

And so I don't disagree with the concept of having a discussion but is it with the Board or is it with, you know, I don't know, the CEO or, you know, or chairman but just making a generic statement that the Board has a

discussion with the GNSO would essentially stall or delay the PDP altogether because it would probably require it to be taken up at the next Board meeting.

Jeff Neuman: Yes, so just to address that and then I'll go to Alan. I think the issue we have is that the Board on its own makes top down requests - again it hasn't happened with a PDP so we're kind of talking in theory here but it has happened in other circumstances.

And the Board kind of on its own without talking to anyone just says it's not only - the problem is not that they initiate the PDP or that they would initiate a task it's that they amongst themselves just say and we want it in two months, right, and then that's kind of binding on the - on everyone else.

And, you know, in a normal corporation, sure, that happens all the time; but this is supposed to not be a top-down organization, this is supposed to be kind of the bottom-up consensus policy especially with PDPs.

So I hear what you're saying, Margie, about not constraining the Board or delaying things but you know what I think, you know, from just again registry hat on here if they're going to initiate a PDP especially one that may result in a consensus policy from a registry perspective I don't care that it gets delayed a little bit because we're not a top-down organization.

So again that's kind of devil's advocate in there. And maybe putting in language that the Board requests an issue report - I hear what you're saying so I'm grasping like you about not being too micromanagement on the Board either. But let me go to Alan and then Avri and then I'll put myself back in the queue. Alan.

Alan Greenberg: Yes, thank you. As an aside we've been having this discussion I've suddenly parsed the expression the GNSO Council shall initiate a PDP without - but without a vote. I'm not quite sure how the GNSO Council does anything

without a vote. How does it make a formal decision if there isn't at least a tacit vote? But we'll ignore that; the words have always been there.

I don't think what Margie is describing is a problem. What I said - and I think, Jeff, what you said is in parallel with the request for an issue's report or an issue report the Board should initiate - and I think Margie or someone used the term the GNSO Council should engage with. I think the Board needs to engage with the GNSO Council.

And, you know, one can clearly put this as, you know, the Board must arrange for an interchange between, you know, Board members and the GNSO Council. It doesn't need to be a formal action of all the Board but there needs to be a dialogue so that we have a way of saying but we don't understand what you mean and, you know, we need to understand why you think this is so urgent that you've initiated it this way.

And if it's anywhere, I think it needs to be in the bylaws. You - the - you can't bind the board to do something with putting something in a GNSO manual.

So I think whatever it is needs to be in the bylaws. It needs to be suitably vague. But I think the - or, you know, one could even say the board should, instead of must.

But I - but I think it comes at that level.

Thank you.

Jeff Neuman: Thanks, Alan. Avri?

Avri Doria: Yes. Two things -- I'm sorry, this is Avri -- One is, I don't think that when the board has done these -- is my historical memory -- that the board has done these things -- albeit non-PDP to get the GNSO going -- there have been things that the board has initiated by talking among itself.

I think if we do a historical review, we'll find out that for the most part, they're due to one or the other constituencies or stakeholder groups within the GNSO going to the board and in the back room arguing, "We don't like what the GNSO is doing. Please make them think about it again."

So I think the - this notion of the board canoodling on its' own to figure out how to make the GNSO jump through hoops is not really an accurate historical description.

On the PDP, I think I agree with Alan that -- and perhaps it is the board on initiate - I mean, because if the board ever does this, first of all, it'll be - it'll be amazing.

It will be again one of those learning experiences with the board that we come to understand like it was when the board interacted -- finally started interacting with GAC -- you know, how indeed this interaction would happen.

And I think adding something that would need to go into the bylaws that says that when the board requests - or rather, when the board orders a PDP -- because the board is not requesting a PDP, it's ordering a PDP -- you know, it should make one of its' committees or something.

But, you know, its' got committees that are made to do stuff. It has - one of its' committees should be prepared to discuss the issue, the implication, the whatever with the GNSO council to make sure that this thing starts out on a proper footing.

Now how one would say that and properly believe and make it fluffy enough so that the board is not required to do some specific thing, I'm not quite sure.

But I think that the idea that if they ever do something that is this great, to sort of say that one of their committees be required to shepherd it through to the

GNSO initiating - or GNSO council, sorry -- initiating the process is not a bad thing.

I think that's a good thing. Thanks.

Jeff Neuman: Thanks, Avri. And let me - so it seems like you and I and Alan agree on that. And so let me ask Margie if she can -- because she's in the queue anyway -- address that and see if there's any way that we can kind of work that in.

Margie?

Margie Milam: Yes. I guess I just wanted to point out that, you know, in the past where there has been a request -- and again, it wasn't a PDP. I'll give an example of a Consumer Metrics -- you know, it doesn't - and it turns out it doesn't work.

There's typically an informal communication between the chair and the board saying, "Look, we can't meet this deadline," which, you know, the deadline for the Consumer Metrics thing is long, long passed.

I think Jazz Working Group is another one where it's long passed. So I guess I'm not sure why it needs to be so firm in the - in the bylaws. I mean, I hear all your points.

The board can't require the community to move faster. All the PDP says is that there will be a PDP initiated -- it doesn't say when it'll be finished, for example. Or when their final report would be approved.

So really, a lot of it is in the hands of the GNSO council, you know, and a subject to its' prioritization and informal communications with, you know, with - between the chair of the GNSO council and the chair of the board.

So I guess I would just, you know, say that that's -- in my view, that, you know, the informal is probably better than something formal.

Jeff Neuman: Okay. And just to kind of -- again, I think - is my next in the queue? Yes.

Just on that, Margie -- I think with the Consumer Metric one -- so I think if someone were kind of addressing again, it wasn't a PDP -- I think it was an issue there because it took someone informally from the board -- it was (Bruce) -- it took him -- I want to say four or five weeks to kind of address our concerns.

And by then, it was so close to the deadline of it being due that there was no chance that we would even have -- and - I mean, everyone, when we read it -- even staff, when you guys read it, you were like, "I'm not sure what they mean."

So I think -- hearing what you're saying, as well -- I mean, I don't see a harm of hard coding it - something in about engaging. You know, if the board does request an issue report, then the board should have or make available someone or a committee or whoever to - I don't know -- as Avri said, kind of shepherd it through the process.

I don't know that it's that formal, but someone to kind of at the next council meeting to be available to say, "This was our motion, this was why we did it, this is what we mean. Thank you."

You know, like is someone - I do think that - I don't see the harm in hard coding something like that, you know, saying, "The board shall, through a representative or whatever, consult with the council on scope timing -- or something like that -- of the requested issue report," or something.

Again, that's not the right language, but something towards that concept.

Let me throw that back to Margie and then Alan.

Margie Milam: Yes. Jeff, I think that's actually workable, because addresses the concern of not having the board of the whole act or even a committee -- which may not have, you know, they don't have committees on every subject.

But if they say, you know, this, you know, they designate someone to interact with the GNSO to provide more information like (Bruce) has done on several occasions. I think that's actually a good idea.

Jeff Neuman: Okay. Alan?

Alan Greenberg: Thank you. Let's be pragmatic for a moment. The board has given the GNSO a whole bunch of things over the last several years. The current board, as it's changing, may well be a lot less top-down than the previous board was.

And so I suspect we're not going to see nearly as many of these with the current board and current chair that - as we have in the recent past.

But pendulums swing back and forth. And should the board ever decide to take talk-down action to initiate what is traditionally a bottom-up action that is PDP -- I think it's worth while putting in the bylaws that it should or it must -- as we, you know, as we wish -- initiate some level of interaction about it.

So, you know, I'm not expecting to see much of this. But should it happen, I think we need to remind the board that in this particular clause that allows them to do this, that there is a requirement for dialogue in parallel with the formal top-down initiative.

Thank you.

Jeff Neuman: Okay. And I appreciate your faith in the new board. I don't.

Alan Greenberg: I didn't - I didn't say faith. I said I have expectations. That's not quite faith.

Jeff Neuman: Okay, fair enough. So Marika, let me...

Marika Konings: Yes, this is Marika.

I'm actually realizing that of course where the common he is relating to is in section four, when you actually initiate the PDP. And I think where we are talking now about having the dialogue is actually at the moment of the request for an issue report.

I just want to clarify that the sentence we're talking about that says -- then probably something at the line of, you know, when the - when the board requests an issue report, it should designate someone in the board to, you know, have a dialogue with the council on this request if needed -- if required.

But we're talking about at that stage, right? Not when we're already at the actual initiation and when it's actually a done deal, because there's no rule that requires.

Do I - do I understand the comments correct?

Jeff Neuman: Well, I think - I think it does - if the board makes the request for an issue report - sorry.
So where do you think it should be, then? I mean, I think this is the right section.

Marika Konings: Yes.

Jeff Neuman: But I'm not...

Marika Konings: Yes. No, I agree that it should be at the request for an issue report. But the actual comments of the Registry Stakeholder Group relates to section four, which is the initiation of the PDP.

If you look at section three, that has actually the request for an issue report. And so I think their comment -- I don't know if it's maybe just a mix up, because their comment seems more to relate as well when you actually start the process at the request of an issue report.

So that's - and maybe just asking you indeed if that is indeed what I think people have been talking about at the moment -- that they actually request a issue report and the PDP is in a kind of way already started, because there's no vote in between.

That is the moment where you want to have that discussion and not after the delivery of the issue report, presumably.

Jeff Neuman: Correct. Right.

Marika Konings: Okay.

Jeff Neuman: At the moment that they - that they request the issue report, is what the registries are primarily concerned with.

And, you know, and obviously the registries have other concerns. I'm just trying to come to something that I think all the groups will - can live with.

Okay. So Marika, can you take that back then and put something in there or recommend something in there where it would talk about the board requesting -- as you kind of said -- requesting an issue report, designating a liaison to meet with the council to discuss -- again, not the right wording.

But to discuss the scope, the timing of the request, or something like that?

Marika Konings: Yes.

Jeff Neuman: Okay. Any one else have any comments on this particular subject?

And I'm sorry, I've not been keeping up with the, you know, the - or the chat. Is there anything in the chat that I may have missed that we should cover?

And also make sure that GNSO is actually GNSO council so that we're - in which respect. Do you need anything else in the chat that I'm missing?

Alan says it should say that the board must initiate interaction with the GNSO, not be prescriptive.

Alan Greenberg: Yes. That was just in relation to someone saying a board must member must be appointed.

And I was saying, keep the prescriptive language more general.

Jeff Neuman: Right. So they should and they can designate whoever they want as a liaison. And okay.

Good. Avri?

Avri Doria: Yes. I would have just as much discomfort about 'must initiate' as 'designating a specific person.'

I think they have to enable, you know, this interaction in some manner or other, but to say they must initiate it, perhaps they've written it clearly.

So it's just should provide some mechanism by which the G council can consult with the board on, you know, the PDP request, as it were.

Jeff Neuman: On the intention and timing of?

Avri Doria: Yes. And so just, you know, should provide a mechanism and let them appoint a shepherd, you know, invite the GNSO council to a meeting, a - however they feel like doing it, but basically.

So if you use kind of some verbiage that is kind of like supports 'should provide a mechanism by which the G council and board can further discuss the issue,' something like that.

Jeff Neuman: Okay. Marika, can you - that something you can work with?

Marika Konings: Yes.

Jeff Neuman: Okay. I do want to add kind of as a side note, Avri saying a term like G council actually makes it sound hip. So I like that term -- the G council.

Avri Doria: Yes. But I've been using it for a while now. It's just - it's just easier and people know what council you mean. And it's easier than always saying GNSO and people saying, "Well, do you mean the people or do you mean the rulers of the people?"

It's just the G council.

Jeff Neuman: Okay.

Alan Greenberg: It also stops you - it also is better than using the term the council, as if there was only one...

Avri Doria: Exactly.

Alan Greenberg: ...which is what we've typically done.

Jeff Neuman: Right.

Avri Doria: I've gotten more and more into a generalist position here, where I talk to both of them, actually.

Jeff Neuman: Oh wow. Okay. So on that note, I think we are done with the public comment review tool. But let me just go back to Marika to confirm that we are done -- that means don't have to go back to anything.

Marika Konings: This is Marika.

                   No, I don't think there's anything left to go back to there. Just if - as Jeff said, I've already started working on revamping the reporting to enter the kinds of comments made.

                   And there are issues where we said we'll look at the language and see if we need to make changes. So there it's basically for the work team to look at the report and see the changes that have been made to see if that indeed accommodates the way we've discussed a - the different comments received.

                   Well, one example for - one issue, for example is that indeed the GNSO council -- replacing it with GNSO actually went through the report and personally only saw very few occasions where I thought it was appropriate to change it from GNSO council to GNSO, because in most instances talking about the PDP, we're talking about a specific action that the GNSO council has taken - taking, and not the GNSO as a whole.

                   So there I would really encourage you to, you know, have a look at the report and see if you see any other instances where it should be changed or, you know, whether you feel comfortable with the way it's done.

                   I don't know, Jeff, if you want to - because I - I have a first draft that I can pull up and, you know, run through. Or do you prefer just to incorporate the changes that we've discussed today and then just putting it out to the mailing

list later today or early tomorrow morning and then, you know, go through it next week Thursday?

Jeff Neuman: Well I think - I think I prefer that latter -- to just kind of put it out later today and then to go over it next week.

I do want to touch Alan kind of -- although I don't want to take too much time, Alan kind of raised a couple issues at the beginning of the call that he wanted to just talk about and see if it affects any of our thinking on some of the other items.

So if that's okay, I'd like to just give Alan the floor for a couple minutes and then see -- again, it may be a little bit of a slippery slope because a lot of us are still talking about the merits of what the motion is currently on the table that the registrars have reposed.

So without really delving into the merits, just kind of tee the overall procedural issues and see where that takes us. So...

Alan Greenberg: Okay. Thank you, Jeff. For those who aren't reading the council list -- and I presume that's most people here -- Tim -- and I'll summarize a couple of messages -- Tim introduced a motion on behalf of the Registrar Stakeholder Group that the RAA be changed to require that registrars provide a street address.

And there's a number of details about it, but essentially that says provide a real street address -- a physical address to identify where they are. And they have to publish it and tell ICANN.

And this came out of long discussions with law enforcement. And some of you may remember, this was one of the things that the community had requested in the last RAA amendment, which didn't come - which didn't come in -- it wasn't included.

And Tim introduced it saying if the GNSO council passes it and forwards it to the board, it's a done deal. And I looked at that and said, well, it's - so it wasn't clear to me if these provisions are within the picket fence or not.

If they're not within the picket fence, then the board can unilaterally make a change in the RAA, but it doesn't kick in until a new RAA is signed by the registrar -- which is perhaps as much as five years.

Or ICANN can encourage it with financial incentives, which would seem a bit self-serving in this particular case, since being introduced by the registrars.

Tim came back and said no, he sees it as within the picket fence. And I accept that that's a valid interpretation.

And - but if it's within the picket fence, as we have been discussion the whole concept of PDP all along -- and this is under the old rules or the new rules -- it requires a formal PDP, starting with an issue report and going through the process, which I think we did a calculation saying if everyone agrees and there's no dispute or anything, it's probably still going to take close to nine months with all the comment periods and the various actions the GNSO has to take at its', you know, monthly or whatever meetings.

And I'm just wondering, is - does anyone else - does anyone see another path that it could be approved as a formal consensus policy without going through the formal PDP process?

And it, you know, I've been talking about fast-paths for cases like this for a long time. And we haven't made any headway on it, obviously.

And does Tim see something that we don't see? And that there is a way of bypassing it? No. You know, he's a representative of a stakeholder group that has - is sensitive to consensus policy.

And yet he seems to be thinking -- although he hasn't explicitly said it -- that we don't need a PDP to do this process.

So am I missing something? Or - well, I'm throwing it out. What do other people have to think about it?

Jeff Neuman: Okay. And I'll - since we have some time, let me throw it to - actually, let me go to Margie first. And then I'll go to James, and then I put myself in the queue.

Margie Milam: Yes, this is Margie. Alan, it's not as simple as you described. It's - because the - if you have a - if you step back for a moment, a PDP under either old rules or new rules is something that applies to things that are beyond consensus policies as well.

And it's not exclusive, so it's not the only way to do something through a PDP. So if you step back and you look at what happened -- for example in 2009 when we had the 2009 amendment -- we went through the process where we came up with a new form of RAA and that wasn't through a PDP.

And that, you know, went through the procedures that were described in the RAA. And so you have - you've got several mechanisms. You can certainly affect the RAA through a consensus policy discussion.

And you do - we've done that when you've had consensus policies on particular topics. But that's not the only way to address it. And, you know, you have the additional mechanism of being able to look through the terms of the RAA itself to see how the RAA changes the, you know, how the RAA could be changed.

And so there's just multiple ways of doing it. And it's not necessarily the case that a PDP is the only way you can change the RAA.

Alan Greenberg: Jeff, can I address that?

Jeff Neuman: Sure. And then...

Alan Greenberg: Very quickly. Margie is right in that the RAA has a - an explicit provision that says all it requires is a two-thirds majority vote of the GNSO. And that is how the last RAA was passed.

My understanding, however, was all parties had agreed that in the future we would translate that clause into implying it must be a PDP and we would not honor that clause verbatim, saying it doesn't need a PDP to - for a consensus policy -- all it needs is the two-thirds majority of the GNSO.

So yes, Tim is right and you are right according to the words. But my understanding was there was an intent that we not go through that path again, because essentially it's asking the GNSO potentially to ratify something which it didn't discuss.

Now in this case, it may be acceptable. So you're right. The rules allow it, but I didn't think - I thought we - every - all parties had agreed not to go that way again.

Thank you.

Jeff Neuman: Okay. Let me go to James and then I'll - I'm going to queue in Alan if you want, again. Or - and Margie, you're - okay.

So let me go to James.

James Bladel: Yes, thanks guys. And you guys are giving me a lot to think about, so I'm not sure I really want to weigh in too strongly on this issue one way or the other.

But particularly when I don't want to give the impression in the transcript that I'm - I've been speaking with Tim on this one, because I haven't been.

But it certainly seems like there could be -- what I want to say is terms and conditions of the contracts that might - if the affected stakeholder group doesn't view it to be a material change, might be able to be amenably changed outside of the PDP.

And I don't mean to imply that the PDP is an adversarial process, either. So, you know, I'm just trying to think here if there's - if there's a way to - if, you know, if everyone is agreed in advance on what needs to be changed and what the language of the change should be, it seems like a PDP is using a sledgehammer to kill an ant in that regard.

So just putting that out there for though. Thanks.

Jeff Neuman: Okay. Thanks, James. So it's interesting, because this topic has garnered a bunch of discussion amongst the registries and I actually had a call on it yesterday. And I'm not going to speak on behalf of the registries, but more on behalf of myself.

And, you know, it's - there are a couple ways to amend the RAA as Margie and Alan have talked about, according to the language of the contract. And the registries have a different contract.

And the new, you know, even the new gTLD's registries have even another way to amend the contracts. We were a little confused by the registrar motion, because again -- like Alan, we didn't know if they were saying they view this in the picket fence or it's outside the picket fence.

But as it relates to a PDP, Alan, it's the registry view that if you're going to change something that's within the picket fence and expect it to be binding on all of the registries, then it does need to go through a formal PDP.

That's why we have it in there. You know, two private parties to a contract could always agree to change things on their own, so if individual registrars want to change things or voluntarily do things and agree to it, they have the power to do that through other processes, right?

There is (unintelligible) for registries, there RSTEP process and so on. So we're kind of in a little bit of a conundrum too, as far as the registries and thinking about this.

And we have not firmly come on one side. You know, we all think the changes are valuable. We think it's good, right? We think registrars should be doing this.

So we're kind of in - torn between, as probably you all are too, right -- and the community. These are good ideas, but we -- from a procedural standpoint, if things are within the picket fence, then we do think that they should go through a formal PDP.
And it may take nine months or less if it's non-controversial, but that's - we just think that's something that should happen.

So again, you know, we don't want to say that we don't want to see these changes in place. And we would love for registrars to voluntarily adopt them and do them, but, you know, we're kind of in that position of, you know, if it's in the picket fence, it needs to go to a PDP.

And as we talked about many times on these calls, you know, just because it's a PDP informal doesn't necessarily mean it can't go through -- and I can't speak relatively quickly -- it just means that you've got to follow the procedures, because, you know, otherwise, you know, why were we here defining this process?

So that's just kind of some initial thinking.

And then let me go to Margie and then Alan.

Margie Milam: Yes. I just wanted to clarify that this view is primarily just on the Registrar Accreditation Agreement, which is a different animal than the Registry Agreement.

I haven't, you know, we - and so I'm just, you know, I'm not disagreeing with you. I don't - I have - I just haven't (unintelligible) it. But from the RAA, you know, with - I wanted to also comment on one of Alan's comments about there's some agreement that we have - we would go through a PDP in the future.

I just don't recall that and think that that is probably unlikely, given the fact that after the 2009 was adopted, the GNSO council started that process of having that drafting team that came up with the, you know, the RAA final report.

And that would have been a waste of time if it turned out that the only thing that could have happened was a - was a PDP in order to accomplish that.

So anyways, I just wanted to raise those two points.

Jeff Neuman: Yes. Thanks, Margie. And I agree with that. We're kind of dealing with an interesting, kind of unique situation.

Alan?

Alan Greenberg: Yes. Just to clarify, I did - I wasn't implying it was a formal agreement. I thought there was just a general consensus that there was a bad taste left in people's mouths for doing it that way and that we would follow the PDP process.

You know, I don't think there was an agreement in writing. But, you know, to be candid, since I've been reminded that there are the words in the RAA that allow us to go do this fast-path.

And if the registrars are happy with it and those words haven't been changed, I think I overreacted in this whole thing and maybe it's mute.

It's certainly, you know, only applies to the RAA and to registrars, but if the words are left that way, you know, we certainly can use this path.

So I think I withdraw - I withdraw the question. If the registrars are happy to keep those words in the RAA and there's been no initiative to change those at this point, then they are passively accepting that a vote of council, followed by an - a ratification of the board is sufficient to change the picket fence issues for the RAA.

Clearly for the registrars, the consensus policy as defined in the bylaws is the one that is operable.

Somehow, I think we still have a conflict that really should be fixed to at least have the bylaws reference this other path that the RAA allows. But I'm not sure that's our job.

Thank you.

Jeff Neuman: Okay. Margie?

Margie Milam: Yes. I forgot to mention one other thing. But the benefit, I guess, of having the - it go through the PDP is that you have it immediately applicable to the registrars, as opposed to waiting until the contract gets renewed, like what happened in 2009.

So if, you know, if the goal was to get everyone on the same page at the same time, then the PDP probably would have been the better approach.

You know, in this case, if it turns out that there's a list of mutually agreeable items that are essentially non-controversial and, you know, that might be something that I can - would consider is to help incentivize registrars to adopt it early, rather than waiting until the renewal.

Jeff Neuman: Right. Okay, any other - sorry Alan, are you still up? Or is James?

Alan Greenberg: No, sorry. I hadn't put my hand down.

Jeff Neuman: Okay. James?

James Bladel: Yes. I think Margie kind of said what I wanted to say there at the end, so I'll just lower my hand. (Unintelligible).

Jeff Neuman: Okay. Any other comments?

So it's a good discussion. I don't think this results in any changes, but I think it was a good discussion and one that I'll just say can be continued, I'm sure, on the council list and within all of our groups.

I think it's something we'll watch out for and may be something ultimately that goes to the Standing Committee if there's any issues that come out of whatever ends up happening.

Okay. With that said, it's early and I want to thank everyone and say yes, we are having a call next week. It will hopefully be our last call to go over the final final report.

And there would be - if everything goes to plan, there will be no formal calls or meetings of this group after the 22nd.

Margie Milam: Yippee.

Jeff Neuman: And whoever said "Yippee," that will be reflected in the records.

Good. So everyone try to make it next week and thanks everyone for a very productive call this week. Thank you.

Alan Greenberg: Jeff, just one follow on -- if the bylaw changes, if legal drafts different words for the bylaw changes, I think we have a obligation to review them.

So this committee may have to recall if - should that happen. If they use the words we have in our recommendations, then clearly we're agreeing with them.

Jeff Neuman: Right. And I think, you know, so the next step would be the council would -- and I'll knock on wood here -- approve the recommendation to go to the board, the board will initiate yet another public comment period and then what happens as a result of that comment period will be interesting, too.

If they follow our recommendations and in - and the - it looks like there may be some substance of changes that come out of that, right? We had - we had said in our recommendations that they go back to the council to talk about those.

So we'll see. We'll see if the process will recommended he actually gets followed.

Alan Greenberg: Right.

Jeff Neuman: Okay, sounds good. Thank you everyone. And talk to you on the 22nd.

But please, if you do have time to read the final final report -- and I keep calling it final final because, you know, we keep having proposed final and all that.

If you have time to read it -- and we should have time to read it -- comment on it on the list so that we could come in on next Thursday with kind of a prepared list of topics to address.

Alan Greenberg: And Jeff, it's good to have you back in full form.

Jeff Neuman: Thank you very much. It's good to be back.

Alan Greenberg: Take care.

Jeff Neuman: All right guys. Thank you.

James Bladel: Definitely, Jeff. See you.

Jeff Neuman: Bye.

Margie Milam: Bye guys.

END