Policy Process Steering Committee (PPSC) Policy Development Process (PDP) Work Team (WT)
TRANSCRIPTION
Thursday 21 April 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 21 April 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 at: http://audio.icann.org/gnso/gnso-ppsc-pdp-21apr11-en.mp3

On page:
http://gnso.icann.org/calendar/#apr
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Participants on the Call:
Jeff Neuman - Registry Stakeholder Group - Work Team Chair

David Maher - gTLD Registry Stakeholder Group
Alan Greenberg – ALAC
James Bladel – Registrar Stakeholder Group
Paul Diaz - Registrar Stakeholder Group
Avri Doria - Non Commercial Stakeholder
Tatiana Khramtsova - Registrar Stakeholder Group

ICANN Staff:

Glen de Saint Gery

Kristina Nordstrom
Margie Milam

Absent apologies:

Alex Gakuru - Non Commercial Stakeholder Group
Wolf-Ulrich Knoben – ISP

Coordinator: This call is now being recorded. Please go ahead.

Kristina Nordstrom: Thank you. Hello everyone. My name is Kristina Nordstrom and I will be

filling in for Gisella today. I will do the roll call since I'm not familiar with this

group I'd like to ask you to please correct me if I mispronounce any of your names.

So on the call we have James Bladel, Paul Diaz, Alan Greenberg, Tatyana Khramtsova, Jeff Neuman, David Maher and from Staff we have Glen de Saint Gery, Margie Milam and myself Kristina Nordstrom. And we have apologies from Alex Gakuru.

And may I also remind you to state your names before speaking for transcript purposes please. Thank you and now to the Chair.

Jeff Neuman: Thank you Kristina. This is Jeff Neuman. And I think you did a great job in pronouncing everyone's name. So...

Kristina Nordstrom: Thank you.

Jeff Neuman: ...it's a good job. Well, welcome everyone. On the agenda it's a pretty simple agenda today. It's pretty much hopefully we'll get through the rest of the comments on the public comment tool that is posted on (dovie) right now. And (Rika) sent this around I believe it was either yesterday or the day before.

And so that's pretty much our goal. The other thing I wanted to let you know is that there's a council meeting next week and during that council meeting we have on the agenda one of the items of the motion to as I discussed the last time to terminate the PPSC meaning for us that we would then take our final report and send that directly to the council as opposed to sending it to the PPSC who review it.

I think this is good for us and it gives us a little bit more breathing room so that we can have everything done and to the council by the Singapore meeting. And I think it also will let us fine tune some of those things that we wanted to get done.

So any questions on that? Okay. So we left off on I believe it's Page 13 if you're looking at the (dovie) and it's item number or it relates to Item #31. Our recommendation #31. Recommendation #31 is where we recommended that each in the PDP working groups provide input on issues related to implementation.

And its impact and then we had economic impact business, social operational and feasibility including when appropriate to recommend the (unintelligible) implementation guidelines as part of the final report, consulting with the working group council on drafting implementation plans and the creation of an implementation team that consists of representatives of the working group and others.

The registry's had a comment where they are suggesting that the work team make clear that the rule of the GNSO with regard to implementation of approved policies by addressing questions such as one, should the GNSO have approval rights for implementation plans; and two, what should...

Margie Milam: Jeff we lost you. Are you on mute? This is Margie. I'll pick up reading 31 until Jeff gets back on. And so it looks like the registry stakeholder group suggested that we address questions such as, should the GNSO have council have approval rights for its implementation plans.

And two, what should the GNSO do if implementation plans are not consistent with the approved policy? So with that does anyone have any comments as Jeff gets back on the call. James?

James Bladel: Hi Margie. So just kind of killing some dead air until we get our voice back. But, you know, I think they're vague questions and I think, you know, it's hard to read these and not think about the new gTLD program. How the council just kind of here, here's the policy and the implementation has been going on now for almost four years.

So I don't know that we have a nice -- flatten it up -- spiffy answer for these.

Jeff Neuman: Hey guys, sorry about that. I just -- I don't know what happened. I think it dropped everyone, except for James.

James Bladel: Paul's still there I think.

Paul Diaz: Yes, I'm still in.

Jeff Neuman: Okay. So you two didn't get dropped but I did, Alan did, Tatyana did, that is bazaar. Okay. So that's Alan's back now. Sorry can you just repeat -- like I don't know where you lost me or lost others. So...

James Bladel: You said something about the two questions that were identified in Item 31 by the registry comment. And my response was these are really large all encompassing existential questions that really come to a forefront when we discuss the new - or think about the new gTLD program.

So I don't know that this group has a really nice efficient tiny answer for that.

Jeff Neuman: Well I mean -- and now that David on, we're all back on. But I mean, I think couldn't we just say with number one it's really GNSO should really only have approval rights or should only be required to approve something when an implementation plan is viewed by a council to change policy?

James Bladel: Okay, but does the staff bring that back to the council or does council take that back from staff?

Jeff Neuman: Well, I think staff should be required to make an assessment at some point as to whether these policies are being changed. And then bring that back to the council. The council's always free to monitor what's going on and then make

a statement if they believe that staff has not brought an issue back to the council.

But I agree with you we can't provide much more on any guidance other than that. All right and we do account for a kind of the post more or then or I think we recommend reviews of each of the PDPs. So I think this is one of those things that's going to have to be honed or refined as kind of as we go along.

Alan you have a comment?

Alan Greenberg: Yes. The real problem is you can't put the responsibility purely on staff to decide whether policy is being changed by the implementation. Because presumably they are doing what they think is the implementation of the policy.

And, therefore, it's a judgment call whether we believe the policy was actually being changed by the implementation. And we've seen plenty of cases of it but, you know, and during the PDP process.

Jeff Neuman: Well, I, you know, let me just add something and maybe get a different comment to it. But sometimes the board approves something that may change what the GNSO recommended. And at that point they can make some independent judgment as to whether that's a new policy or change to the policy as opposed to just implementation.

So it's not always the case that staff is implementing what they believe is the existing policy, right. There could be some changes with the board.

Alan Greenberg: Well, but the staff's implementing what the board approves. If the board has the right to make those changes, which is not clear from the current bi-laws but let's presume they do have that right then staff is implementing what the board has approved.

The GNSO is just one clog in that overall process.

James Bladel: Couldn't we say that if a staff makes a judgment or should -- have some sort of role in making any judgments if they believe that the board has approved something that deviates from the policy?

Alan Greenberg: I think the real question is what if they do something which they believe in their hearts is just implementing the policy. But, you know, the people who wrote - who participated in the PDP for instance may believe that they have actually changed policy by doing that.

                  So I don't think we can - I don't think that GNSO can stop it but I think it's reasonable for us to say the GNSO has to be given an opportunity to comment on it which is as much as it can do.

Jeff Neuman: Let me go to Margie. Margie? Are you on mute Margie?

Alan Greenberg: Margie says, "I hear nothing." And Paul says, "They lost me."

Kristina Nordstrom: I'll check with the operator and see if I can do anything.

Jeff Neuman: I hear you.

James Bladel: I hear everyone so far.

Alan Greenberg: Maybe we lost Paul. Yes.

Jeff Neuman: Yes.

Alan Greenberg: This is clearly not a good day to have a conference call.

Jeff Neuman: I guess not.

Alan Greenberg: I think we should heed their wisdom and just give up.

Jeff Neuman: Let's see, James still on, Paul's still on, Tatyana are you still on?

Tatyana Khramtsova: Yes, I'm here.

Jeff Neuman: Okay. Let's see, who else, David are you on?

David Maher: I'm here, I was on mute.

Jeff Neuman: Yes, okay. So I think we just lost Margie and Paul this time.

Margie Milam: I'm back actually it's Margie.

Jeff Neuman: Hey Margie. So did you, now that you heard everything. Did you got a comment on this?

Margie Milam: Yes I did. I agree with Alan his prior comments. Sometimes staff doesn't realize or doesn't look at implementation in the same way that others in the community might. So we might think it's just a implementation detail whereas, you know, others might think it's really a change in the policy or something else.

                And so I think it's not bad to suggest that staff come back to the council if we believe that, you know, we're changing a policy. But I do think that we probably want another mechanism to pick up the areas where we, you know, just haven't realized it or look at the issue differently.

Jeff Neuman: So there are two things we could do. Now I'm not saying we should but in theory. We could ask other staff always come back to the working group with their implementation plan before it's presented to the board. That's one option.

And the other is to just say that there's a mechanism or to make sure that whatever implementation plan that the staff opposed is put out for some sort of comment at that point and time the working group or members of the working group or former working group could at least observe whether they believe something's been changed. Allan?

Alan Greenberg: Yes. Well, to start with you said before the staff brings the implementation plan to the board I don't think there a phase where they do that. I think once the board approves it it's up to staff to implement period.

I don't think there's a formal process by which the board approves the implementation. I may be wrong on that but I don't recall such a thing. Look we're talking about something which at least in my history which goes back 4 1/2 years has always happened.

On the very few PDPs that we've actually implemented that the board has approved I think staff has always come back and talked about implementation with the possible exception of PDP-06. And I'm not sure the board ever approved that one.

So in general we're talking about what is currently happening and all we need to do at best is try and say staff has a responsibility to pass PDP implementation plans by the GNSO.

Jeff Neuman: Okay. Margie you have something to add to that?

Margie Milam: Sure. Yes. I wanted to comment on Alan's observation. I think that's right but it's not always the case that the board approves implementation plan. And obviously we're seeing it with respect to the new gTLD program I think it's a huge program but I think once the board adopts the policy then it's just not always 100% that it goes back to them when staff works on the implementations.

Alan Greenberg: That's what I think I said. That's what I was trying to say anyway.

Jeff Neuman: Right so I think and I agree with that so I think what we basically what we could say is that all implementation plans prior to being finalized should be -- and finalized either by going to the board for vote to have with the new gTLDs or just before it's posted and signed, this is it.

It should go back to the council as a heads up and then the council should have a period of time to just say, "Well wait a minute we think that there's a change to the policy there and let's figure out what the next step is."

Maybe that's the solution and it's not degraded and further provide the most guidance but it basically says that there's -- it should be run by the council, the council could give it back to the working group but either way. I think that's probably all that we can do. Does that make sense?

Alan Greenberg: Yes I think so. And I think it's just in trying to what is generally current practice anyway.

Jeff Neuman: Yes. I think with the exception of the new gTLD process I think you're right.

Alan Greenberg: With the gTLD we've had infinite numbers of presentations, implementation plans.

Jeff Neuman: Well, sort of...

Alan Greenberg: It's approved. It says we have to have the opportunity to comment and presumably comment to the board, to staff and/or the board should we choose.

Jeff Neuman: Okay. So then you get to the second part of the question which is what should a GNSO do if implementation plans are not consistent with approved policy? At that point I think if the GNSO as a whole decides that this is a

change for the policy and it's not consistent and initially came from the GNSO then I think at that point the GNSO should have some opportunity to stop the implementation until such time as a workable, or until such time as it's straightened out.

Alan Greenberg: I'm not sure we can stop it but we certainly can tell the board that we believe that a change has been made.

Jeff Neuman: Well, let me see how do we -- there should be a right of defer implementation until such time as it can be addressed.

Alan Greenberg: I think that's stronger than we're likely to get approved but I may be wrong. Remember especially if the board has changed, you know, assuming the board has the right to change the policy when they're approving it, then apparently based on new gTLD experience, they do.

Jeff Neuman: So put aside new gTLD for a second because I've stretched every single rule and, you know, because of different interest that have been involved. So if you take and for the contracted parties.

So look if you take a something that requires a change to the agreement the registry, registrar or the contracted party agreements and if the board decides something that goes 180 degrees or not even 180 but enough apart from what the GNSO recommended, then it could be handled in one or two different ways.

It can be handled by a former protest by the contracted parties and fight it out in arbitration which is not always the best way to do it. Or it should be deferred if the GNSO council as a whole say, "Wait a minute, stop. That what you pass does not have consensus with the community." Then that should not be implemented.

I mean its two choices would you rather it go to an arbitration or would it rather go back to the policy council to try to resolve it. I don't mean the council...

Alan Greenberg: But remember PDPs can do things other than set consent policy.

Jeff Neuman: Well I understand. But I'm giving you an example of PDPs and why -- and an important example and one in which I don't think the comment you made before which is there's nothing we can do to stop it. I'm not necessarily sure I agree with.

So I do think that if there's a change to the policy that GNSO council should have the right to request a deferral of implementation of that until such time as something, some processes can be between the GNSO and staff on how to remedy that.

Or what the issues are and to figure it out to try to negotiate something and maybe negotiations not the right word but to try to come to consensus on what the solution is.

Alan Greenberg: I would think it has to go to a board decision, past that I don't think we have jurisdiction. Now the contracted parties might in terms of consensus policy. They do have alternative but I'm not sure the GNSO can do anything other than request board review of it. Margie has her hand up.

Margie Milam: Yes, if I may. I agree with Alan. You know, we got to remember that the GNSO council doesn't run ICANN, the board does and the GNSO council doesn't, you know, run implementation either.

And so when the board approves the policy, you know, it directs staff to do the implementation. And so I see, you know, what Alan is saying is more appropriate under the circumstances where the council would say, you know, "Hey wait a second, this is not you know, consistent with the policy."

And it just goes back up to the board and then the board, you know, decides whether it wants to tell staff to stop or not to stop but, you know, or keep going.

But, you know, I think that's the appropriate, you know, chain of command if you will, you know, the way that ICANN organization is set up at this point. And so...

Jeff Neuman: Yes. I think I agree with that and I think that's right. I'm just saying that the council should be able to request a deferral to the - to whoever and staff should not continue with their implementation until such time that it gets considered by the board.

Alan Greenberg: You know, I think we're saying the same thing with different words.

Jeff Neuman: Right.

Alan Greenberg: I mean staff can continue the implementation but they can't actually implement it.

Jeff Neuman: Okay.

Alan Greenberg: they can continue the planning, they can do whatever they're doing but they can't put it in place if the GNSO has formally decided that it in fact is not implementing their policy. Or the approved policy as they understood it.

Jeff Neuman: Yes, we're saying the same thing. And I think that should be an automatic deferral of the final what did you call it, the actual plan until the board has decided. In other words staff can't say, "Well, this kicks in May 15, no matter what."

If the council says, "Wait a minute, that's deviating from the policy we planned." You know, they sent that to the board somehow on April 30 at that point and time I can't -- staff has to stop and say, "Stop meeting, May 15 is no longer the date." And it's handled.

Alan Greenberg: Being put in place, yes.

Jeff Neuman: Yes.

Alan Greenberg: Yes, I'm sorry. I took that implicit deferral, you know, if indeed there's a deadline coming up and the board hasn't passed judgment yet then yes there's a deferral implied. Sorry I took that as a given but you're right making it explicit doesn't hurt.

Jeff Neuman: Yes. Margie do want to...

Margie Milam: Yes. I can capture that I assume, I'm trying to think of situations where that might not work but I can't off top of my head and certainly, you know, if it's an important the board can, you know, they meet fairly regularly.

So I'm not aware of any policy that gets implemented that the implementation date is so critical that it has to be, you know, next week or next month or whatever it is. So I think that might be fine.

Jeff Neuman: Right. And remember this is only those recommendations that come out of a PDP. So it's not, there's other recommendations that may come out. All right the next question is -- I think we kind of addressed the registry's concern on that one.

I think too, we sort of talked about what should the GNSO do if implementation plans are not consistent? I mean that's a case by case basis. If they really feel that strong then what we talked about is to request a deferral.

All of the -- what do we call it Alan? The final...

Alan Greenberg: The implementation of the implementation.

Jeff Neuman: Yes. I think that we can jump to 34 and which is Recommendation 34 dealt with or deals with your requirement to at least an initial report and file report. The says what would be the recommendation of the work team on the timing of the initial report expectation to a publication of the initial report should be clarified in detail.

I believe we discussed this. I'm pretty sure unless I'm dreaming about this and that would be pretty sad. So I think what we said is we can't really specify when an initial report is going to come out. It's really case by case depending on what the issues that the working group is working on.

That said, I believe that it's the responsibility of the working group, chair and liaison to make sure that the council is aware of the proposed timelines. Because I think we also said some proposed timelines may be in the charter.

And so the council liaison and chair of the working group should be responsible for updating the council and making sure the council's always aware of those timeframes.

And if the council doesn't like that, you know, at whatever point, they can then, they can make the, make that known to the working group. I don't think we can give much more guidance than that. Alan?

Alan Greenberg: Yes, I wouldn't want to give more guidance. I actually in answer to a question I received on what was the ALAC involvement in the initial stages of the new GTLD PDP? I went back through a lot of archaic documents and I was very surprised to find the initial report was issues almost immediately after the PDP was started.

And in fact...

Jeff Neuman: Which one was that?

Alan Greenberg: ...that in fact was the process. You get community comments. You get constituency comments and you issue an initial report almost immediately. And our whole thought process in this has changed and I wouldn't want to lock too much in at this point.

Jeff Neuman: Yes. I don't think that's right. Anybody else have any thoughts on that? Margie you got it?

Margie Milam: Yes. So basically we're not suggesting any change and I'll just make a notation as to why we think it's better to be flexible. And how the charter usually specifies the timeframe and...So yes...

Jeff Neuman: And emphasize just the importance of the chair and the liaison to update the council frequently on any changes to those timelines and then obviously the council can do what it wants to do in their managerial role.

But constant communication should is a good thing.

Margie Milam: Okay. Got it.

Jeff Neuman: 37, Recommendation 37 which relates to the termination of a PDP. The registry's recommend a rewording and -- let me see how it's worded on the initial one -- and the one the report we have here it says, "GNSO council find significant cause and passes a motion with a super majority vote in favor of termination."

Oh it should have say, super majority they want us to specify what super majority is and then they note - the registry note that if a recommendation 48

approved which redefining super majority or adding another part to the majority this would refer to that as well.

So there's real change I see as a -- it's just spelling it out. Anyone object to spelling it out?

Alan Greenberg: The only problem I have with spelling it out if we mean super majority, is that we're then defining it in two different places and should we ever decide to change the definition you have to catch all the places.

Jeff Neuman: Do we -- yes, I agree with that. Do we anywhere in this document have the definition section? I know we define it in the bi-laws or super majority is defined in the Bi-Laws as we will recommend being updated with the 2/3 part.

To make this a consistency thing I would go with define terms as opposed spotting it out everywhere because you're right Alan there could be a consistency problem.

Alan Greenberg: I mean I note in last week we talked about another of the issues that we talked about a majority vote capital M and that was not defined. So I think we need to be careful that we're consistent. But I really don't like defining it in multiple places.

Jeff Neuman: Okay. So Margie can you just -- I think it's just a note to, to just check consistency.

Margie Milam: Yes, I will.

Jeff Neuman: So I really think that's all it is.

Margie Milam: Okay.

Jeff Neuman: Recommendation 38, the deferral consideration of file report, registry state the clarification should be added that states that only one delay maybe requested regardless of what, yes, this is a similar comment to one that was prior that we talked about in the comment tool.

And I believe it was earlier on but we discussed on one of the other previous calls and we agreed with this. Because that was the intent it was not to be a state group can request one and therefore can be, it can be deferred for seven or sorry, six meetings.

Alan Greenberg: Define a new term serial deferment.

Jeff Neuman: Right. So have already agreed with that. INTA says that the deferral per the request of one Council member apply may only be - only this consideration to file for it in that.

Okay, they're asking that it be seconded and that was the same comment they had on Recommendation 16, and what we said on 16 is we didn't address that on 16 did we?

Oh I think we were leaving that to the operational rules. Right, I think Margie this is the same as the comment to 16 that we have as the Work Team.

Margie Milam: Okay.

Jeff Neuman: Alan?

Alan Greenberg: Yes, in the perhaps rare case but it may be very applicable case of only one Councilor being present from a particular Stakeholder Group, and that Stakeholder Group is one that wants the deferral, requiring a second may essentially remove the opportunity.

Jeff Neuman: I think that's...

Alan Greenberg: And a case where two of the three Councilors are gone - are not there is just the kind of case where you may well want a deferral.

Jeff Neuman: Right, and I think that's - that was why on 16 we said that we're just leaving that to the operational rules and we're not adding that requirement to second it. That's just something that will be decided by the GNSO Operations.

Alan Greenberg: Yes, I would even go farther in saying we don't recommend it but, I mean, clearly the operational rules could specify it. But, you know, I think it removes one of the checks and balances that we've decided over the last couple of years is essential so...

Jeff Neuman: Okay, I notice that Avri is now on. Does anyone have any thoughts on what Alan said? I mean, on Recommendation 16 it was our recommendation that we just leave it to the operation rule, you know, the appropriate Operational Committee.

Alan is saying going a little bit further and actually recommending that it not have to be seconded, so does anyone else have any thoughts on that? Okay, does anyone - how about a vote, or not a vote but a - how many people agree by signaling a check mark that we should update it and recommend even further that we do not recommend requiring a second?

And Avri keeps raising and dropping your hand. You need Avri to say something or...? We've been having lots of technical problems today, so now I'm hearing real quiet.

James Bladel: Jeff, this is James.

Jeff Neuman: Okay. Oh sorry, hey James.

James Bladel: Hi, just a question. What - I'm not sure which way to vote because I'm not sure I understand the question on the table.

Jeff Neuman: Okay sorry. Yes, I did a bad job with that.

James Bladel: Not requiring or not - okay go ahead.

Jeff Neuman: Our recommendation which was the same as Recommendation 16 when considering a - whether to initiate the PDP or maybe it was the issues report. Anyway our recommendation was that the GNSO Council could do what it's been doing, which is if any one member of the Council decides to defer or ask for a deferral, it's basically automatically granted.

We said with the issue of - the INTA had said that they wanted to make sure that another Councilor seconded the motion to defer, and on that we as a Work Team on Number 16 said no - not no but we're not going to dictate the actual process by which a deferral is made.

We're going to leave that to the GNSO Operations Committee or whatever that's called, so we're not going to go any further than that. Alan has recommended that we do go further and actually recommend against requiring a second.

James Bladel: Okay so which of those can be expressed in a binary vote?

Jeff Neuman: Does the Work Team agree with Alan that we should go forward and recommend against requiring a second? Sorry, I know there's negatives in there.

Do we agree with Alan? Avri agrees. James does not. David agrees. So David, you're saying that we should recommend against requiring a second. Okay, so James seems to be - Paul, any thoughts on this?

Paul Diaz: I'm sorry I'm a little dense this morning. Again we're - the - trying to boil this down. So the Work Team will explicitly say we do not believe a second is necessary in deferring. Is that what the vote is?

Jeff Neuman: If you were voting yes that's what you're saying.

Paul Diaz: That we do not believe a second is necessary. Fine.

James Bladel: I'm voting no I guess because I do tend to agree that we shouldn't be meddling in and prescribing how the Council conducts its operations. If I'm alone on that, that's okay. I don't feel terribly strongly about it.

Jeff Neuman: Alan?

Alan Greenberg: I think just to clarify, I tend to agree with what James just said and I realize I'm using the term recommend, which is the word we use for things that we are saying it shall be this way.

                  What I was saying was the Working Team feels strongly that such a second should not be required, but still leaving the discretion up to Council to set the rules the way they want.

Jeff Neuman: Yes, I think that...

James Bladel: Alan won me over.

Jeff Neuman: All right, now let's see if Margie got that because she's the one that...

Margie Milam: Jeff can you repeat that? I didn't quite get it.

Alan Greenberg: Yes, I'm saying this is not a recommendation in the form of all of our other recommendations saying it shall be this way, but we are sending a message to Council that we believe that requiring a second would dilute the abilities of

a Stakeholder Group to duly consider the PDP, which is what we're really talking about.

The deferral is there to give a Stakeholder Group or multiple Stakeholder Groups an opportunity to truly consider an issue, as opposed to voting blind before they've actually had an opportunity to discuss.

And we believe that such a decision would dilute that ability and we do not think it is advisable, but I wouldn't make it as strong as a recommendation for the very reason that James suggested.

Margie Milam: Okay and then...

Jeff Neuman: Right, so essentially the way we could do it is just by we respond to the INTA comment, and this is both for 16 and for - what were we just on, 37?

Alan Greenberg: Thirty-eight.

Jeff Neuman: Thirty-eight, so for both 16 and 38 the response to the INTA comment is that the - we disagree with the recommendation of INTA that a second be required but we ultimately leave this issue or defer this issue to the - I don't know if that's the right word - to basically leave it to the Council to figure it out.

Alan Greenberg: Yes.

Margie Milam: Okay.

Alan Greenberg: That's fine with me.

Jeff Neuman: Okay good. Thirty-nine, Recommendation 39 which now I'm going back and forth between two documents, Recommendation 39 deals with - sorry, I'm scrolling here.

Okay, recommends providing additional guidance to the GNSO Council and the PDP Manual how to treat Working Group recommendations, especially those that have not received full consensus and PDP Working Group should be encouraged to indicate which if any recommendations are interdependent, when the GNSO Council could take this in account as part of the deliberations.

Council should be strongly discouraged from separating recommendations that we believe - I'm sorry, that the PDP Work Team has identified as interdependent and we express our concern about picking and choosing and so on.

So the comments we got back from - and we got a bunch of comments on this one, CADNA supports the recommendation. The - Stephane says that - asks why we're concerned with the Council accepting some but not other recommendations. Isn't that what's expected from the Council?

And suggested correction to the last set until the recommendation removed the word their. Let's do the last one - last part of his first. If we remove the word their - oh okay, it's just a typo Margie at the end of Recommendation 39.

The last sentence is just a typo in there. You'll see it when you reread it. It's the last sentence.

Margie Milam: Okay.

Jeff Neuman: So that's fine. I mean, that's just a typo. So then the question is, "Why are we so concerned with picking and choosing? Isn't that what's expected from the Council?"

And this one we spent a long time talking about and it was the notion that the Working Group - since this is a bottom up Policy Development Policy

process, it's the Working Group that has the expertise in these issues and the context in which they made their recommendations.

And to pick and choose may be to alter the effect of what the Working Group was trying to achieve, and may not solve the issues that the Working Group was trying to address and actually could in theory make things worse.

So we discussed this for a long period of time and I think this was - these were really the concerns. I'm sure there's more, so Alan you want to weigh in on that?

Alan Greenberg: Yes, I'm rather surprised at Stephane's comment. There's been a lot of discussion over the last couple of years, you know, with the "new GNSO," that the GNSO should not be in the business of building and inventing policy, and that the GNSO should in fact do what we think the Board should be doing, that is you pass it on whole or toss it back but you don't have the opportunity to pick and choose.

We went against that to some extent saying the GNSO can pick and choose, but they better not separate things that are deemed to be related by the Working Group.

Jeff Neuman: Right and Avri's got a...

Alan Greenberg: And so I'm surprised that Stephane is recommending even farther down the line for saying the GNSO is in the business of building policy. I mean, one has to be careful.

This is an opportunity to undo what a Working Group has done by some people in Council who, you know, refuse to accept all of the recommendations and - but this is, "Well we'll take the first three but we refuse," you know, so this is almost a back door into rewriting the recommendations.

Jeff Neuman: No I think...

Alan Greenberg: I'm not sure - I think we may have gone too far already. I certainly wouldn't want to go farther.

Jeff Neuman: Alan I think there are certainly, you know, a number of people that share your view. I think there are a number of views on the Council and probably different for each Council you ask.

                 This Work Team has sided with your view and Avri says it in her comments on the chat as well, which is the GNSO should be making policy. It's the Council that should not be.

                 The Council is managing the process not making the policy, which generally is the view that this Work Team has taken. And so I think, you know...

Alan Greenberg: But we have given Council some discretion. We've just said don't separate ones that were marked as being related.

Jeff Neuman: Yes, correct. That's correct.

Alan Greenberg: But we have gone against Avri's words to some extent already.

Jeff Neuman: Well I'm not sure that we have because I think our thought was it's not that - sort of. I see what you're saying. I think we've also said that the GNSO cannot just - the Council just can't take a recommendation and turn it around from, you know, what it is to the complete polar opposite.

                 It needs to send it back to the - it could disagree but it needs to send that back to the Working Group. In other words if the Working Group recommends that something should be done and the GNSO Council says, "No we

completely disagree and we want to change our recommendation to something that should not be done," it doesn't have the discretion to do that.

It's got the discretion to pick and choose where there are certain things that are not interdependent.

Alan Greenberg: Yes, I'm not sure we actually said that. I think we need to go back and look at that carefully.

Jeff Neuman: Okay, let's do that. Let's put that as our own action item then.

Margie Milam: It's Margie. Can you tell me what we're going back to? I'm sorry I lost the discussion.

Jeff Neuman: That's okay. So right now let me do the easy part and get us back on track for this one. We - for all the reasons that Alan and I had mentioned, the Work Team's view was what we have now in the report, the recommendation that it shouldn't be pick - that where the Working Group indicates certain recommendations that are interdependent, that we would - we are concerned with the picking and choosing of those recommendations.

And so we agree with what we have said. Alan's comment and my comment was - or Alan's comment was that well the GNSO Council has a lot of discretion anyway, and one of the examples I had said was well I don't think the GNSO Council has the right to take a recommendation by a Working Group and make it the complete polar opposite, that it really needs to send that back to the Working Group.

In other words if the report says - makes a recommendation that something should be done and the GNSO Council says, "No, no, no, we disagree," change our recommendation to it should not be done, I think at that point the Council should be sending that back to the Working Group along with its

concerns, as opposed to changing their recommendation. Did I just confuse it even more?

Margie Milam: So if the Council is saying it's the opposite, isn't that the same as voting down the recommendation? I mean, do they actually set - make the policy to do the opposite or do they just not adopt that particular part of the recommendation?

Alan Greenberg: The real question is can they vote on it recommendation by recommendation or not, or do they have to do it as a whole?

Jeff Neuman: Well we've already said they can do a recommendation by recommendation. They can always vote down a recommendation, but they can't change it.

Margie Milam: Okay.

Jeff Neuman: So I'm...

Alan Greenberg: Jeff could I give a particular example?

Jeff Neuman: Sure.

Alan Greenberg: Yes, we're just about, you know, trying to finalize the post-expiration domain name recovery recommendations, and as a Working Group I don't think we ever discussed are these related or linked or not.

Certainly we haven't done that yet, and in fact we split as this group has - we have split recommendations into multiple recommendations to try to keep each recommendation simple and understandable.

And that means that obviously they are linked but we never - we haven't gone through the process just like this Working Group hasn't gone through the process of looking at our 41 recommendations or whatever the number is and

saying, "Well, you know, 14 is really tied to 22 and they can't be separated." That's a complex matrix when you think about it.

Jeff Neuman: It could be and it's probably something this group should do if we think there are interdependent ones.

Alan Greenberg: I had never thought of that as one of our tasks but I guess it is if we're allowing Council to change it. Now I - given that PEDNR is an existing one working under the old rules, I don't know what the old rules are in terms of allowing this or not.

Jeff Neuman: Yes, there's no guidance in the old rules as to what Council can do. But - so my example that I would use is that let's say there's a recommendation that says that the ad grace period should stay at five days, right.

That - let's say there was a - and I'm making this up completely hypothetically.

Alan Greenberg: Sure. Go ahead.

Jeff Neuman: Let's say the Council then says, "No we think it should be 15 days." On its own initiative the Council does that. I think that should not be allowed. What the Council could do is say, "We vote," and let's say it's not an interdependent one, that it's one on its own.

The Council should be able to disagree with that, "Here's our concerns," and send it back to the Working Group. That's what the Council should be doing as opposed to making complete changes to recommendations.

Alan Greenberg: I guess it sounds to me like we're getting into really dangerous waters, but maybe that's why I think we should look at it separate from this discussion on...

Jeff Neuman: On 39, right.

Alan Greenberg: ...on 39.

Jeff Neuman: That's - Margie that's the kind of thing we need to kind of look into a little bit more detail.

Margie Milam: Okay so what do I do with this section? I mean, do I just say further analysis? I mean, I don't know what to do. I can summarize what the discussion is, but it doesn't sound like we've got a recommended action or change at this point.

Jeff Neuman: Well now there's no change to the text and the recommended action for us is to just review the issue of - just capture the discussion.

Alan Greenberg: Yes, I think that it will implicitly mean we're going to review the answer to this question should we decide that a change is really warranted but...

Margie Milam: Okay..

Jeff Neuman: Let's jump ahead to Recommendation 40. Actually we really don't have to talk about it because two groups support it. So let's go to Recommendation 41, which is a voting threshold.

                 INTA says, "Whether or not the voting threshold should be reviewed, revised, it should not wait for the next GNSO review. The Council should recommend this topic for further consideration by the Work Team with a short timeframe for a recommendation."

                 Okay, our recommendation is that we discussed whether they should be reviewed and we said it should be part of the next overall review with the GNSO.

So we could just delete the part of when it should be reviewed in response to the INTA, or we could agree with INTA and say it should be done before. But how do you all feel about that? Alan?

Alan Greenberg: Yes I - my hand was up from before but I just was trying to raise it again. My recollection is when we decided this, is we said we don't really think there's any - other than the one change we are recommending, we don't believe there is enough experience to recommend a change but it should be done sometime in the future after there is more experience.

And we simply said the next review is probably an appropriate time. I don't think we're locked into the - it being at the next review but we do suggest that we gain some experience first, and I think that was the intent.

Jeff Neuman: Yes so we could respond and we could change it to - so we could just say the PDP discussed whether the voting thresholds currently in place might need to be reviewed.

See also overarching issues but agrees that this issue we said should be covered as part of the next overall review. We could just say, "But agrees that this issue should be addressed by the Council when it deems appropriate."

Alan Greenberg: Yes or, you know, we suggest deferring the discussion until we have more experience, you know, perhaps at the next review or something like that would be fine. I think that would enshrine what we were trying to say at the time.

Jeff Neuman: Which I'm actually fine with saying it that way too. Anyone else - does anyone disagree with that? Margie, so basically saying, you know, keeping the sentence, keeping the, you know, but agree - so Recommendation 41 PDP discussed whether the voting thresholds currently in place might need to be reviewed.

See also overarching issues but agrees that this issue should be addressed as the Council has - or as the GNSO gets more experience with these thresholds.

Margie Milam: I got it.

Jeff Neuman: Yes, just whatever. You can figure out the wording.

Margie Milam: Yes, I got it. I got it.

Jeff Neuman: Awesome. Okay, and feel free to interrupt me at any time; tell me to move on. Forty-two, the Board vote. This is actually a very big issue which I'm going to skip over for now, which I think may take a considerable amount of time to discuss.

This is the whole issue of how to interpret what it means to act - sorry James.

James Bladel: Just real quickly I wanted to let the group know that I have to stop here in four minutes and I apologize for that.

Jeff Neuman: Oh thanks James. Yes, so Margie can I make a recommendation or just a note that let's start on this one and we're not ending the call now, but I think we should start with 42 on the next one.

Margie Milam: Yes, and would it help - right before the San Francisco meeting I released a - kind of a - the Staff view on that point. It might help for me to kind of walk you guys through what that thing says and, you know, and then start the discussion off so to just kind of refresh at least what the Staff view was on what that meant.

Jeff Neuman: Yes that would be a good idea.

Margie Milam: Okay.

Jeff Neuman: And then if you want to invite or you need anyone else from Staff or anything, you know, I think that's a good topic for the next week to start off with.

So I'm going to jump ahead to Number 45, which is guidelines for Working Group self-assessment should be developed and these should be included in the final manual.

So I think is one of the ones where we sort of punted a little bit and said that there are several vacuums including the Working Group Guidelines that reference a Working Group self-assessment, which all Working Groups are encouraged to conduct.

Or simply this could be a valuable exercise, encourages PDP Working Groups to complete a candid and objective self-assessment at the conclusion of their work.

However we note that there are no guidelines that recommends the GNSO Council develops its guidelines after some experience is gained in Working Group self-assessments.

I think what we could say is that this is a perfect issue for the new standing - whatever we call that, the SIC. Know what we call it Margie, the new committee that the Council created to review PPSC and OSC recommendations?

Margie Milam: Yes.

Jeff Neuman: I think this is a perfect one to refer to them. And just say since it's our recommendation that these be developed after there's more experience, that we're - we could punt the issue over to them.

We could also say, and then I'll go to Alan, that really part of the assessment should be assessing it against the initial criteria that was set in the charter by the Working - by the Work Teams and did you meet your - the objectives? Did you accomplish what was in the charter?

And I think that's the easy thing to say but other than that, basically kicking or punting it to this SIC. But Alan, you have thoughts on that?

Alan Greenberg: Yes, I support everything you say but I'll add one more issue. The concept of self-assessment is a far wider one than just PDP Working Groups. The Council creates all sorts of groups that some of them are, you know, effective, some of them are far from effective.

And I think both a self-assessment and this assessment of Council is worthwhile, and I don't think we should be trying to develop them just for PDPs. I think it's a much wider scope than that.

Jeff Neuman: I think that's important point to note as well.

Margie Milam: Oh I'm sorry, Alan could you repeat that? Sorry.

Alan Greenberg: I'm not sure I can. It - just that their Council creates all sorts of Working Groups, Working Teams, Design Teams, you know, we keep on inventing new names and the concept of assessment be both self-assessment and assessment by Council or by GNSO is applicable and relevant for a lot of those. So it's wider than just the - than just a PDP issue.

Margie Milam: Okay. Right.

Alan Greenberg: And besides we have enough to do anyway.

Margie Milam: Well and that explains why we feel it's more - Standing Committee to look at it first because it affects other groups. Got it.

Alan Greenberg: I like the concept of passing it on to a Group that I'm not part of.

Jeff Neuman: All right, the last one before your overarching issues, Recommendation 48, definition of Supermajority. The Registries recommend that the definition is redefined if 2/3 of the Council members of each House or 75% of one House and a majority of the other House.

Let's see how we did it. We said, "To include the original meaning of Supermajority either 2/3 of Council members of each House, whereas GNSO Supermajority be 75% of one House and a majority of the other House or a 2/3 Council members of each House."

Are they just reworded or they just changing the - I should know this because I'm a Registry and I can't remember this. David, do you remember - recall this? It seems like the Registries just recommended reversing.

Oh, so they're just recommending reversing the wording because it seems confusing the way they did, but there's no change to the substance.

David Maher: I don't recall.

Jeff Neuman: Yes, I mean, it - just rereading it and Margie can you double check, but I think this is just the Registries reversing the order of the definition as opposed to changing any substance? And if that's the case...

Margie Milam: Yes I'll - okay, I'll look at it and confirm it on the next call.

Jeff Neuman: Okay, and if that's the case I don't think anyone here would object if we think it makes - if there's no change - let me ask the group. If there's no change in the substance do people - anyone object to changing around the wording?

Alan Greenberg: I don't object on that grounds but on reading it now, seeing it in front of me, the expression 2/3 of the Council members of each House is a very awkward statement and I'm wondering can we make that any clearer.

The first time I read it I stopped after Council members and I said, "That's wrong. That's not what we meant." You know, if we can - if we can make any clearer that would help but I think technically it's correct right now, and I have no objective to flipping the order.

Jeff Neuman: Yes, I think we do use the word House in the Bylaws now, so I think...

Alan Greenberg: Yes, no it's not incorrect. It's just I stumbled as I was reading it, but I think technically it is correct.

Jeff Neuman: (Unintelligible).

Alan Greenberg: I'm not sure if house, I'm not sure if house is a divine term and therefore capitalized though.

Jeff Neuman: All right, so Margie will go and make sure that this doesn't change the substance and assuming it does not change the substance then there's no, then we'll just agree to take the registry wording. If there is a change in substance Margie will let us know, and we'll discuss that on the next call. I think we can breeze through some of these overarching issues because I think some of them have been discussed already.

So on translation, (A lock) is satisfied. It supports a recommendation so there's nothing for us to do there. On voting thresholds, Stephane says that we should recommend something in relation to the voting threshold especially in relation to the low voting threshold to request an issue report and not put this back on the GNSO Council to deal with as part of its prioritization in terms of what we say here in the report...

Sorry, it's taking me a second here. This is - if people are following along this is on page 34 of the final report. It says that we discussed it overall. We decided to keep it, the thresholds and we list a couple thresholds that are added, and then we state that - at the bottom we state, we state that there is - what do we say here?

Our conclusion is that we discussed the issue report - I can't find it. Sorry. Thought I had it and don't. I mean I think the answer is, look, we discussed it. We don't necessarily disagree, but we're - this is part of the overall review that should be done by the GNSO and at this point we don't have enough to go on to make any changes, right. I mean I think that's what we all pretty much said. And we do say - actually we do say overall the work (unintelligible) existing (unintelligible) threshold should be reviewed part of the next cycle of GNSO review.

And frankly I think it might be inappropriate for us to just consider it since we don't have - we didn't collect any data through this process on what has happened with all the votes that have been taken. You know, what were the outcomes. We have a couple of examples where there's a low threshold to initiate a PDP, and in the end it turned out the group - or one example that the group couldn't come to consensus and maybe that reflects the issue with the low threshold, but maybe it's due to other things. So we just didn't collect any evidence to make any recommendations. Alan?

Alan Greenberg: I'll say again, I think this is a red herring. In terms of overall workload on the GNSO, PDPs are not the leading example of where work comes from. Certainly not in the last several years. I can think of very few PDPs that were approved by the skin of the teeth with the low threshold. I think we could spend an awful lot of work and not change the ultimate reality at all. And I don't think we should be spending an awful lot of time on it.

I know, you know, it depends and some members of Council feel very strongly that Council is overloaded, and we have to prioritize by not accepting

work. I think we need to prioritize by scheduling the work differently if indeed something is deemed to be important enough to require policy work, and I just - I think we're reacting to a problem which is not the one that we really have.

Jeff Neuman: And so, you know, Alan, and I respect that view, and I think others just have different views. I think the problem with us making, going - I'm sorry I agree with your ultimate outcome that we shouldn't be making any recommendations out for a different reason really for the fact that we haven't collected any data on this. There's just nothing for us to base...

Man: That's true.

Jeff Neuman: ...our (unintelligible) other than people's feelings regardless of what they are. So I think really that's where we're, you know, objectively - I would come on this one. I may have a different personal view than you do, Alan, but either way it's just a view, it's not anything we've collected any information on. So, all of that leads me to just say, stick with what we have, which is just recommending that this be reviewed as part of the next cycle of review when data can be collected.

And maybe that's what we add. We add that explanation, in fact, you know, there's - we understand people are asking us to look at - even the (BC) says we should simplify, but at this point in time we can't even, you know what I mean, I'm collecting data to do anything with this other than to stick with our original recommendations. And Avri agrees with that. Anyone disagree with that notion?

Okay, so moving on. And I appreciate everyone hanging in here, but I think we can kind of get - my goal is to be done with all these after the next meeting. So we're on the PDP manual. CADNA strongly recommends that the PDP team -- be us -- be required to engage in the collection of

information issued from all ten advisors and experts, but would like to see the addition of the provision that would ensure that those selected are neutral.

Okay, let's look at what we say. I've got to find where this is. Okay PDP manual, I'm not sure what we actually do say about this. Just 5.9.

Paul Diaz: Jeff?

Jeff Neuman: Yes, please. Yes, Paul.

Paul Diaz: Hey, it's Paul. I find this particular comment - I think it's enough for us to just say, "Thank you very much. We heard you," and move on. I find it very ironic because CADNA's anything but neutral in the positions they take and it's just like okay whether they're stumping for themselves for future consulting work or something or not, I don't know. But it's enough to just say, great heard you, let's move on. Don't worry about finding a particular reference in the report.

Jeff Neuman: Okay, then let's - and actually - let me - I'm - actually I found it in the report so let me just read what we have and - (unintelligible) on approval of the PDP charter, GNSO Council may form a Working Group task force - no, wait. No that doesn't say what - this section actually deals with requiring PDP work teams to become familiar with the manual. I mean that's what it says.

                I'm not sure what their comment relates to. Oh, PDP teams encouraged to establish communication in the early stages of PDP with other departments and we talked about outside experts and they're saying - strongly recommends PDP. All right, Alan, if you have an idea what their - why don't you jump in and I'll see if I can find anything.

Alan Greenberg: Yes, I disagree with what they're saying completely. To say that a work group must be required to engage outside consultants, that's almost as if to say, you know, an opportunity to make sure there's more consulting engagements that we pay for. Council always has the ability to reject the outcome of a PDP

saying the group didn't do a diligent job of doing their work. But I think the work group - it has to be up to the work group -- excuse me -- to decide how to diligently carry out their work. Council passes judgment after the fact, but I don't think we can say, you know, every work group must have a $100,000 budget to engage outside consultants. I think some PDP subjects may fall into a category where this is going to be required and others it may just not apply.

Jeff Neuman: What we say is that the PDP is responsible for engaging the collection of information that's deemed appropriate or helpful by the PDP team. The PDP team may solicit opinions of outside advisors or experts. So, I think what you're saying and what others are saying is that we stick with what we recommend and we thank them for the comment. I would also note that outside advisors, almost by definition, are rarely neutral. Right? If you're seeking an outside opinion from an economist? Economists aren't neutral, none of them are. If you're seeking an outside opinion from a lawyer, lawyers aren't neutral, they usually represent someone or something or some point of view.

So what I think we should say is we thank them like Paul said. We thank them for their comments when we know that we still, we stand by our recommendation that outside advisors and experts should be solicited - or may be solicited if -- the words we use in the report -- if deemed appropriate or helpful but not required and that on the neutral part, I would say that we find it difficult to have such a requirement since most advisors by definition are not neutral and therefore we don't really understand how we would implement that.

But Avri is disagreeing. Let me - just strike that last part, let me go to Margie who's had her hand up and I'll go to Avri.

Margie Milam: Sure, I mean to kind of address the issues that Alan raised. I think that's right, you know, we've had budgetary implications and you've seen how difficult it is

even to just get funding for WHOIS studies so. So what typically happens and just to go back to what happens, say with the Rec Six or the Vertical Integration is you know if it's helpful to get outside advisors though they're typically advisors that ICANN's already retained. So you've got Carroll Dorgan from (Joan's Day) that came on to talk to us about morality and public order for example.

And you know and then I think we had (Joe Simms) or others from (Joan's Day) on Vertical Integration kind of coming in to talk to us. And so, you know so I don't think anyone would say that they're neutral because of the sense that they're, you know, attorneys for ICANN. But, everyone knows that you know that in essence, I mean there's no surprise that you know that ICANN's retained them for other purposes. But I do think that their input was helpful and (Gordon Gribb) you know can discount it if they don't think it. You know it sheds light on their issues.

Jeff Neuman: Okay, Avri and then Alan.

Avri Doria: Yes, this is Avri, I certainly agree that we shouldn't make getting outside consultants mandatory. I do think also that we should avoid impugning the neutrality of either the commenter or professionals in general. Certainly I think people can take the posture and position of neutrality and actually go very far in being neutral.

Certainly there's an epistemological, yes, they have a world view, they have a point of view that will come out. But neutrality as an attitude in trying to attempt, I think lots of professionals can do it, do try to do it, and so we shouldn't be making categorical statements and saying this can't be done. But I do agree in principle. Certainly we shouldn't require them. Thanks.

Jeff Neuman: Okay yeah that's why I kind of - I probably shouldn't have said what I did, so I strike that, although I do have a comment on neutrality but I will wait till after Alan.

Alan Greenberg: Okay, I agree with what Avri said but I'll add a caveat to it. There are neutral consultants in some areas and the ones that I'm talking about but I'm PDPs, I'm far from neutral. I believe I'm a consultant who can assess situations from a neutral point of view in many cases. But the world is full of consultants who say they are neutral and are far from neutral based on any rational judgment of the work they do, so one has to be careful. Saying they're neutral on their business card does not imply anything.

Jeff Neuman: Fine, and so my real comment on neutrality wasn't meant to be that they side necessarily with one side or the other, but if you are hiring different types of experts, they have a certain field that they work in. They have a point of view. I would say (Joe Simms) from (Joan's Day) -- to give a good example like Margie would tell you -- I don't think he's neutral in the sense he has a definite point of view. But that doesn't mean that the Working Group can't benefit from that at all. I mean I - so to require that everyone be neutral I think is not really appropriate.

I think that if you're going to seek an outside advisor - let's say I'm UDRP, right? The group will solicit opinions from those that are - that represent trademark owners but will also solicit opinions from those that represent more often than not defendants in UDRP actions. Some of them only defend defendants - I should say represent defendants. Some of them only represent plaintiffs.

One may not technically consider that maybe CADNA wouldn't consider that to be neutral. But those both would be valuable in providing advice to a Working Group so to require everyone to neutral just seems kind of - as long as the Working Group can ferret that out and understand where the expert comes from?

I think that is very valuable information and to deprive that kind of information from any Working Group is a bad thing. So that was more of what I meant as

opposed to whether people themselves could be neutral. When I think of someone being neutral themselves I think of a judge that's really supposed to listen to both sides and come out with a determination as opposed to experts who usually represent a certain point of view. Anyway, I think we've talked about - I think we're all in agreement.

I think is that we're not recommending any changes to our language.

Man: We're strongly not recommending any changes.

Margie Milam: And so - yes just to clarify do you want me to say anything about neutrality or just leave it? We're not recommending any changes to the...

Jeff Neuman: I think we're kind of rejecting the notion of one, requiring outside advisors in the first place and I think we're rejecting the notion that a Working Group can only use those that are neutral, unless people disagree. Does anyone disagree with that? I think it's a rejection of both. And maybe we say as long as all, you know, maybe experts should be required to do like a - not as formal as a statement of interest but as long as the Working Group understands where they're coming from, I think there should be no requirement for neutrality.

So - and Avri as she says, sometimes you want neutral and sometimes you want advice from a certain perspective because a group may be biased in a certain way. And Paul says rejection of requiring outside experts in many PDPs, their input could be welcome.

Okay. So, again, it's our existing language. If the Working Group deems this to be helpful it's what we say in the report they should do it but it's not required. Alan?

Alan Greenberg: Yes, I was going to say something akin to what Avri said, Working Groups often have opinions and if they can find an expert to go along with them,

that's exactly what they want. But I think we need - if we're going to reject this recommendation which is basically what we're doing, I think we need to give a bit of a rationale. We can't just say we discussed it and reject it. You know, perhaps we can say listen to the conversation that, you know, an hour and 15 minutes into our call and give them the URL.

But I think we need - if we're going to reject it outright which is what we're doing, I think we need to put some level of rationale. You know, I think we've already come up with all those words so Margie needs to extract a short answer of it. But...

Margie Milam: Yes, I think I've got the gist of it. And I'm going to pick some of those themes that Paul has in his comment because I think that's right that, you know, input could be welcome even if it is not neutral.

Man: Right.

Margie Milam: And with leaving flexibility for the Working Group to, you know, they can always ask and try to find a neutral one but we're not requiring it.

Jeff Neuman: Yes. Okay 5.11 which is preparation of final report, CADNA says they want further information as to how comments will be evaluated, what would be required to deem them appropriate for inclusion in additional report on how comments were considered, should be required as well and it proposes that the final report be required to be posted for public comments as a draft final report.

What we say is the staff manager is responsible for reviewing the copy - actually we're changing the words I think as a result. But in essence it says that one of the previous comments that we had addressed in one of our recommendations is being revised, so it will say that it's really the PDP work team that responsible for reviewing the comments. But the staff manager will

prepare a report to include in the initial - for inclusion to the initial report - underline does not make sense. Let me read it, what it says.

At the end of the public (unintelligible) staff manager in close coordination with the PDP team is responsible for reviewing the comments received and adding those deemed appropriate for inclusion in the initial report in order to produce a revised report for consideration by the PDP team. Our changing that sentence to mean it's a PDP team responsible for reviewing it, not the staff manager.

The staff manager and PDP team are not obligated to include all comments made during the comment period including each comment made by any one individual organization, and then it talks about, we're expected to deliberate as appropriate to address these, and so let's just get down to what CADNA's recommendation is which is they want further information of how comments will be evaluated. I'm not sure how we do that. Can anyone think of anything we could - Alex?

Alex Gakuru: Yes, I had a revelation the other day, and I - walking the dog and why I was thinking of comment periods I can't explain, but nevertheless I realized that right now we have comments, we have a summary of the comments. There's a third part that we don't have on the history of public comment periods -- that is the response of the staff or the work group or whatever is applicable to the public comments, and I think that actually should be part of the formal ICANN comment process.

And it happens to address this issue, but I think in fact it's a wider issue than just PDPs. So we may want to think about something like that, but I don't think - I don't agree with the conclusion that a final report needs to go out for public comment. I don't know what we say right now, but I would think that if the final report has substantive changes from the interim or the draft or whatever that was put out that a public comment period may be warranted,

but I certainly wouldn't want to require it when in many cases there's going to be only minimal changes at that point.

Jeff Neuman: Margie?

Margie Milam: Yes, this is Margie. I disagree with that because, you know, we're trying to -- in the spirit of transparency and openness -- we may not have people even commenting on an initial report, you know. Oh I'm sorry, we're talking about the final report, open for public comment?

Alex Gakuru: The final final.

Margie Milam: The final final. Okay, so we've already had a public comment period. Never mind, I'm not sure. I wasn't really following it.

Jeff Neuman: Here's what we say. In the report on page 58 we say, "while a final report is not require to be posted for public comment, in preparing the final report the PDP team should consider whether the final report should be posted for public comment as a draft final report with the goal of maximizing accountability, transparency with regards to the PDP especially when substantial changes have been made compared to the content of the initial report."

Alex Gakuru: I think we said it all.

Jeff Neuman: And that's (our) comment. I think that pretty much addresses CADNA's comment. I mean, I think they're saying it should be required, that final report should be out, so they want a requirement. We say it's discretionary and I think - does anyone in the group feel like it should be required as opposed to discretionary? I mean I think that's the only real comment there.

Alex Gakuru: I certainly don't. If I remember correctly, the board is required or believes - or routinely before they take a vote on it. Once the Council approves a final

report it goes to the board and I think there is a public comment period at that point also. So...

Jeff Neuman: The Council often does too, a report - if there's no - usually the Council if there has not been a public comment period on the final report by the Working Group, the Council usually does its own public comment period before it votes, but Avri?

Avri Doria: Yes, I would recommend here using almost a rule that we use in the (IETF) which is if there's been no substantive change, then it doesn't need to go. So in the (IETF) you go out for public review as often as there is substantive change, but then if you get a review and then you just make a couple, you know, fix this, fix that, fix the other thing, but nothing has substantively changed then you can decide, no, it doesn't need further review. So perhaps a midway solution to their thing is, if there's substantive review, then yes, it should go out, but I mean, substantive change. If not, no.

Jeff Neuman: Isn't that what we're saying right now?

Avri Doria: It is, but we're not making explicit what the condition is.

Jeff Neuman: Okay.

Avri Doria: Basically we're just saying it's at their discretion as opposed to sort of saying, you know, giving a condition when it is reasonable to do so. That's all.

Jeff Neuman: Okay, so let me look at the language of what we say here. We say it's - it should be especially when substantial changes have been made compared to...

Avri Doria: Okay.

Jeff Neuman: Okay. I think that addresses it. Are we right?

Avri Doria: Yes, yes, I don't have the text in front of me so I was just going on the conversation sorry.

Jeff Neuman: That's okay. That's why I have this pulled up. So I think it sounds like we're all in agreement that -- disagree, that CADNA's requirement that it be required. We stick with our language, that addresses it.

                 Impact analysis of remaining open issues. This is probably a good place to stop because I think impact analysis, I think this is something that we're going to need to talk a little bit in depth about so what we'll cover on the next call. We'll start with number 40 - Recommendation 42, then we will go to - we'll start up again on remaining open issues.

                 Alan, do you have a comment?

Alan Greenberg: Yes. We - on the CADNA comment. We really didn't address their middle sentence. That additional report on how comments were considered should be required as well. I'm not sure the word report has a capital R. But that a work group is required to publicly put forward how they address the comments, I think is valid.

Jeff Neuman: I think we are entitled...

Alan Greenberg: And we may already have addressed it but I think that is a valid comment, if it's not already addressed. And as I said, I think it's a wider issue than PDPs but, you know, PDPs are the only thing in our domain.

Jeff Neuman: Okay, Margie?

Margie Milam: I think and maybe this is a suggestion. Using a public comment review tool like what we have in front of us. This is, you know, something Marika put together and we use in a lot of Working Groups but I don't know if we're

consistent about it because then, you know, this document -- once it gets done and gets posted on the Wiki page for the Working Group -- doesn't that satisfy the CADNA concern? Because essentially that's what we've done. We got the comment. We've got the Working Group response and a recommended action or change.

Alan Greenberg: If it's pointed to in the final report, sure.

Margie Milam: I don't know that we want to put it in the final report. You know that makes the final report gigantic.

Alan Greenberg: No I said point - pointed to.

Margie Milam: Yes. It could be referenced and - and you know, we - and if my suggestion is being encourage or recommend all Working Groups to adopt this approach so that it's a standard practice.

Jeff Neuman: Yes. All right, guys, I think that's right. I think we just reflect that Margie and I think we're - any more questions or comments, I know we're just running out of time. So I want to be respectful of that. But I think we can finish this all up on - next week. And then we'll come back on with the next steps and to get this truly final final form to get to the Council.

Man: Great work. Thanks Jeff.

Man: Thank you Jeff.

Woman: (Unintelligible).

Man: Bye.

Man: Bye.

Woman: Thank you.

END