

**Registration Abuse Policies Implementation Drafting Team
TRANSCRIPTION
Monday 15 November 2010 at 15:00 UTC**

Note: The following is the output of transcribing from an audio recording of the Registration Abuse Policies Implementation Drafting Team on Monday 15 November 2010, at 15:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to 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-rap-20101115-en.mp3>

On page:

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

Present for the teleconference:

Mike O'Connor – CBUC – Drafting Team Co- Chair
Greg Aaron - Registry Stakeholder Group – Drafting Team Co- Chair

Berry Cobb – CBUC
Joi White - Intellectual Property Interests Constituency
Lisa Rosaya - Intellectual Property Interests Constituency
Fred Felman –Individual
Faisal Shah – Individual
David Donahue – Individual
James Bladel - RrSG

Apologies:

Elisa Cooper – CBUC

ICANN Staff

Margie Milam
Gisella Gruber-White
Marika Konings

Coordinator: This call will now be recorded.

Gisella Gruber-White: Thank you. Good morning, good afternoon to everyone. On today's RAP Drafting Implementation work group on Monday the 15th of November we have Greg Aaron, Mike O'Connor, Lisa Rosaya, Faisal Shah, Fred Felman, James Bladel, Berry Cobb, Joi White. From staff we have Marika Konings, Margie Milam and myself, Gisella Gruber-White.

And we have apologies today from Elisa Cooper. If I could please just remind everyone to state their names when speaking for transcript purposes. Thank you, over to Mikey.

Mikey O'Connor: Thanks Gisella and welcome all. Well our agenda is pretty short. Hopefully we can get this wrapped up today and hit the deadline for getting stuff into Cartagena. Before we do that I just need to see if anybody needs to update their DOI or their SOI. Take silence as a no.

On the screen in Adobe Connect is the draft that Marika circulated earlier this morning and is not the one that Lisa circulated seconds before the call.

Lisa Rosaya: An hour.

Mikey O'Connor: An hour, get out of here; it was seconds. It was seconds, it was like 3600 seconds I guess.

((Crosstalk))

Mikey O'Connor: But not very many seconds. Anyway I think the thing to do is kind of work our way through Marika's changes. I will admit to a little frustration that these changes came in so late. We kind of encouraged people on the call last week to get substantive changes in early enough that folks could react. And I feel like these are coming in awfully late. So let's try to get through these on the call today.

But I don't have my usual cheerful sympathy for some of this stuff so...

Lisa Rosaya: That's okay I'm ready; I've got my armor on.

Mikey O'Connor: Okay. I'm glad. All right so that said the first changes that I see come on the bottom of Page 1. Have to kind of shrink my little gizmo here so I can read it. This is where we're changing sort of language around unanimous - where we

didn't have unanimous consensus in the working group we're sort of moving that out into its own point and sort of highlighting it and then adding just some navigational stuff.

Any issues with the changes in the letter part on the bottom of Page 1 and the beginning of Page 2? Marika, go ahead.

Marika Konings: Yeah, this is Marika. Just to highlight that these were changes that were suggested by Berry in an email he sent I think somewhere - halfway last week to the list.

Mikey O'Connor: Yeah and I thought they were fine. Anybody got a case of heartburn? Going once, going twice. Okay. All right then the next one is rolling down on the bottom of Page 4 where we're just tuning up that language about using the PDP process with the expected outcome being best practice; just sort of tidying that language up. That seems fine to me anyway.

I'm going to roll through these and say fine, fine, fine, fine unless people throw their body on the tracks and, you know, then just stop me. So next one I'm finding is on Page 6. And this is where we've got a big change. This is one of the ones that came in pretty late.

So let's sort of work through this one. The language that was replaced was in the note, Note Number 2 said, "There may be a dependency with Whois studies." That note has been replaced with a sentence that just extends Note Number 1 and says - so that Note Number 1 now reads, "It may be helpful to see the effective RPMs in the new gTLD space, particularly the interplay between the UDRP and the URS prior to engaging in any PDP process."

And then Note Number 2, "There may be a dependency with Whois studies which are presently in the midst of an RFP process and implementation," and a third note which says, "In addition to the foregoing note several members of this drafting team have also expressed reservations about proceeding with

the PDP process that may result in changes to the UDRP at this time because of the significant resources presently noted that new gTLD process and significant burdens already placed on ICANN's present compliance staff."

Got a couple of hands in the queue so we'll go first to Greg, my esteemed co-chair. Welcome Greg.

Greg Aaron: Thank you Mikey. I - last week I had proposed a brief snippet to deal with the discussion we had about the dependents on the Whois. So that isn't reflected here; instead we've got a very different version. So we have my proposal and then we've got this new one.

Some of this material strikes me as revisiting the deliberations of the RAP.

Lisa Rosaya: I think most - this is Lisa. I just think most of it is clarifying language. So I...

Mikey O'Connor: Lisa, let me exercise my chair-like powers and encourage you to wait until Greg is done.

Greg Aaron: Well...

Mikey O'Connor: Go ahead Greg.

Greg Aaron: ...what this says is - the first bit of the change here in the document actually says something different than what the RAP group discussed. There was a - what this says is, you know, this says see how the new TLD URS plays out before doing a PDP on the UDRP. And the RAP group actually did - thought the opposite.

Lisa Rosaya: May I respond to that? I think that you're right. I think the prior to engaging in any PDP process should be deleted. So I agree with you.

Greg Aaron: Okay.

Lisa Rosaya: And my apologies.

Greg Aaron: Okay. So then the second bit is the - we have to figure out this language about Whois. And we've got a version here and then I had tossed out another version last week. I think we should compare those two.

And then - and then the Number 3 in the amendments says - this also reiterates a long discussion that took place in the RAP group. And it's an opinion I think about resources and the compliance staff at ICANN which I don't think that's a - I don't think that's something that we can figure out in this group or form an opinion about. The council has to figure out resourcing.

So let me stop there and, Mikey, you can figure out how to approach these points.

Mikey O'Connor: Oh well let me just check with Berry and see if - Berry is your stuff germane at this point or shall we finish what Greg has kicked off first?

Berry Cobb: Yeah, let's just finish what Greg - I support what he says and I support his version for the notes. Thank you.

Mikey O'Connor: Okay. Let's do the Whois part first. So the original version is the one that got deleted. There may be a dependency with Whois studies, right? And the new version is Number 2, "There may be a dependency with Whois studies which..." - and then it gets expanded, "...which are presently in the midst of an RFP process and implementation."

So Lisa you want to tell us about the second half of that?

Lisa Rosaya: I just was - I just wanted to point out while I'm sure the council may be aware obviously that there was this RFP process and how it was going to implemented. And I think Joi had more to add to this.

Joi White: Yeah, I was just thinking it would be - I agree with Lisa, I think it would be helpful for us to just make a note; while we're, you know, making this recommendation to the council where exactly things are with respect to Whois just for context.

I don't know when they're actually going to be taking this up but just for contextual purposes I thought it would be helpful to have that in the notes.

Greg Aaron: Mikey, this is Greg. I have a question?

Mikey O'Connor: Yeah, go ahead.

Greg Aaron: Which RFP are we talking about because - is there more than one taking place right now?

Mikey O'Connor: Margie?

Greg Aaron: There's an RFP for Whois accuracy and, I mean, that's gotten so complicated I can't even keep...

Mikey O'Connor: I know.

Greg Aaron: ...track of it all.

Mikey O'Connor: I think there are several open at the moment in different states of repair. Margie or Marika can you clue us in on the RFP situation at the moment?

Margie Milam: Sure, this is Margie. There was \$400,000 allocated to Whois studies. One study - essentially been approved but the council is considering several more. And so there's - they're trying to figure out how to allocate the remainder of that \$400,000 and there's a number of additional ones that they're exploring right now.

Mikey O'Connor: Yeah, I understand, Lisa and Joi, your thought there but believe me the council is fully aware of the RFP resource problem with Whois. And remember also that this Whois dependency was one that Mary originally brought up. And she and I corresponded about this and agreed that the dependency is pretty light because this is a very, you know, the dependency here is not strong.

And so I prefer the original language as well which is saying yes there may be a dependency with Whois but not emphasize it. So if it's all right with you folks I'd like to back that second clause out and just leave it the way it was penned by Greg.

Lisa Rosaya: So what would the revision be?

Mikey O'Connor: It would just be to strike the second clause of Number 2 so that now Number 2 would go back to reading, "There may be a dependency with Whois studies."

Greg Aaron: Okay. And Mikey, this is Greg. My suggestion was to - I propose that a revised version of that first clause which you can see in the chat window.

Mikey O'Connor: Oh okay so Greg's suggestion was that we remove the, "There may be a dependency one," and replace it with, 2, "Whois accuracy is a factor when filing some UDRP cases, but the issue of Whois accuracy is not a prerequisite or barrier for examining the UDRP," which is in fact the sense I think of the working group back from those.

So where are we at? Let's see, Faisal is okay with mine; he's probably not fine with Greg's. Faisal, you want to chime in on Greg's version?

Faisal Shah: Well I'm just - I think I'd like to keep it, I guess, somewhat noncontroversial here and just keep it with, "There is a dependency on Whois studies," and

leave it at that. I think everybody would pretty much agree with - I'm thinking everybody would pretty much agree with that.

Mikey O'Connor: Yeah, I think that might be the kind of safe middle course; just leave it the way the - if you look on the deleted thing that Marika replaced just go back to that which is, there may be - "there may be a dependency with Whois." Then tiptoe carefully away from the third rail. You okay with that Greg if we went to there?

Greg Aaron: Well the - one of the hang-ups is that we're using the term dependency when above we have said that there are no dependencies.

Mikey O'Connor: Yeah, that's true we do have to substitute a new word for...

Greg Aaron: And, I mean, and my note about this section pointed out that generally we're using dependency to mean there's a prerequisite or some issue that has to be solved before or in tandem with.

Mikey O'Connor: Yeah.

Greg Aaron: In this case the RAP working group said no that's not the case. You can examine UDRP without solving Whois issues. There may - now it is true that as my note says there are, you know, Whois accuracy is a factor when you're going to file a case or thinking about filing a case. So, you know, it's absolutely true that there is a relationship. And that's what I was trying to get at...

Mikey O'Connor: How about if we...

((Crosstalk))

Mikey O'Connor: ...substituted the word relationship for dependency?

Lisa Rosaya: Or correlation?

Mikey O'Connor: Yeah, just to back off - I agree we need to back off from dependency, that's a little too narrow a word but relationship or correlation or something like that? But rather than the long version that you've got, Greg, just substitute a looser word for dependency in the terse little short version of Number...

((Crosstalk))

Greg Aaron: ...it's okay. What can we use then?

Mikey O'Connor: Relationship?

Greg Aaron: There may be a relationship with Whois studies? I'm trying to - try to read it as someone who had not been in these meetings.

Mikey O'Connor: Yeah, that's true.

Greg Aaron: So I don't know if that...

Mikey O'Connor: Yeah, that doesn't work...

((Crosstalk))

Mikey O'Connor: It's not enough. I mean, I see what you're trying to do. And actually I'm okay with that version. I mean, maybe what we should do is just strike Number 2 since we've already declared that there is no dependency there.

I mean, it's almost like we're out of sync between our dependency statement up above which is not (and) and this. Why don't we just back out of the garage on this one all together and just leave it off? I don't think it materially changes our findings.

Joi White: Mikey, this is Joi. So as I had pointed out in my email last week I just would really like to have some context in the notes. I mean, we're not really saying that there's a dependency but I think it would be helpful for the council to just consider that there, you know, is some sort of interrelationship between Whois and how that's evolving in any analysis or road mapping that goes on with respect to the UDRP.

Greg Aaron: And this is Greg. I was trying to accommodate Joi's...

((Crosstalk))

Greg Aaron: ...there. It ended up using a - some - a number of words. So, I mean...

Mikey O'Connor: What if we - Joi if you can do this which I often can't so I'm sort of putting you on the spot - but if you could repeat the phrase you just said? That seemed pretty benign to me.

Joi White: Well I just wanted to flag for the council that there is interdependency - well not interdependency - interrelationships between the current state of Whois and the effectiveness of the UDRP. So any analysis and road mapping efforts that take place with respect to the UDRP should take into consideration the current state of Whois and the availability, access to data, things like that.

And I had circulated some language earlier in the week that was...

Mikey O'Connor: Presuming the language that got circulated kind of matches that, Greg, are you comfortable with the way that Joi just reframed it because I think that's...

((Crosstalk))

Greg Aaron: Well maybe we should go back and find her language...

Mikey O'Connor: Yeah.

Greg Aaron: ...from the mail. I mean, we're getting into an area actually that the RAP report didn't talk about which is...

Mikey O'Connor: Right, we are starting to get substantive but...

((Crosstalk))

Mikey O'Connor: To a certain extent it is a project...

Greg Aaron: When you file a UDRP case you have to file it against somebody. And we actually don't know how big of an issue the Whois turns out to be yet. This is probably one of the things that needs to be looked at in a PDP. You know, is to use proxies, you know, sometimes the registrant steps forward or the registrar puts it forward.

I mean, we don't now how much of a dependency there is or if any. I mean, there's probably some but we - this is something we don't know very much about and can't make substantive comments about I'm afraid.

Mikey O'Connor: Yeah and I think that the intent is just to give the drafting group a little bit of a heads up to keep an eye on the state of Whois when they're doing their roadmap for this particular PDP.

Joi White: Exactly. This is Joi. And it does actually impact the claims that you can bring so if you're trying to show that there's, you know, a pattern of bad-faith use if you can't actually find out who the registrant is you can't really bring a claim. So it is kind of - there is definitely a deep interrelationship between Whois and the UDRP.

Mikey O'Connor: Yeah.

Greg Aaron: I wish somebody would have said that during the RAP group.

Mikey O'Connor: Yeah, I mean, that's the trick is that a lot of this is now getting into sort of opening up the actual substantive discussion of the - of the recommendations that we had in the RAP.

Joi White: Well since we are where we are I think it might be helpful to just, you know, mention that for the group that, you know, goes forward with the PDP process and the GNSO Council so they know kind of, you know, what to be looking at in road mapping.

Berry Cobb: There are a lot of hands up.

Mikey O'Connor: Oh I'm sorry, I'm way behind. Let's see, we'll start with Marika and then run through the queue. I'm terribly sorry; I've been staring out the window. Marika, go ahead.

Marika Konings: Yes, yeah this is Marika. The point I wanted to make is that I think there are probably a lot more issues that, you know, might have an impact on how that roadmap would look.

But what typically happens and what happened as well with the IRTP which we give as an example that such a process always starts out with a public comment period where everyone is asked like please, you know, give us your issues or what you think should be taken into account when we start road mapping or planning a map on how to (redo) the UDRP.

So I think it's in its nature that in that process there will be an opportunity for everyone in the community to identify those issues such as Whois and such as other items that need to be taken into account. So part of the (unintelligible) in identifying specific items here is that others are left off the list.

So I would just, you know, like to caution the group in trying to, you know, really define here what different elements need to be taken into account is that it's inherent to the process that the council will adopt and (running) such a PDP or road mapping exercise.

Mikey O'Connor: Thanks Marika that's very helpful. Berry, go ahead.

Berry Cobb: Thanks Mikey. This is Berry. And, yeah, just to tee off what Marika said, you know, the language that we're trying to propose here is doing the drafting team's work. We should just stop at the fact that the drafting team needs to be put together to follow the same kind of nature that IRTP went and be done with it.

Any of this other language is exactly what Marika said, there will be plenty of opportunity for the community to come in and have their input as to what should be done, the scoping of what's in, what's out, what dependencies, etcetera, etcetera.

Mikey O'Connor: Thanks Berry. James, go ahead.

James Bladel: Hi Mikey. James speaking. And this is a bit of a stale hand but originally I was going to mention that, you know, in addition to Whois studies there is also an AOC effort to review all Whois policies that were underway. So I felt if we were going to mention Whois studies as any kind of a dependency or something that could have impact on this issue we should also mention those.

But now I'm sort of kind of coming down in Berry's camp is that we're diving a little too deeply into this and we need to just pull back and let the community and the drafting team take care of this. Thanks.

Mikey O'Connor: Thanks James. And I'm quite taken with that approach that Marika just laid out so well. And so I'm now tempted to go back to my original point which is

to just delete Number 2 all together. And I'm getting some checkmarks and I'm not getting any howls of protest so I think that's what we'll do. I think that we just accidentally got a little too deep into the content stuff. Joi...

((Crosstalk))

Faisal Shah: Hey Mikey, this is Faisal. I guess why couldn't you even say something like the - that we should consider the impact of ongoing Whois studies or something to that affect; that at least point out there Whois studies and then consider the impact of the Whois studies on this recommendation?

Mikey O'Connor: Well I think that Marika summed it up pretty well; that this isn't the right place to do that because when we do that we may leave out other things that are equally important for the drafting team to consider that don't have anything to do with Whois. We're sort of giving it special treatment and...

Faisal Shah: Well...

((Crosstalk))

Faisal Shah: ...yeah, I understand that but I think Whois studies, I mean, is more significant than most other...

Mikey O'Connor: Yeah but I think that...

((Crosstalk))

Mikey O'Connor: ...is dependent on your point of view.

Faisal Shah: Oh I understand that but, I mean, okay.

Mikey O'Connor: I...

((Crosstalk))

Mikey O'Connor: I'm just really uncomfortable with this direction of sort of reopening the substantive policy discussion that we fought for a year in the RAP. It feels very uncomfortable to me. I would much prefer to let the community speak during the normal drafting team process where the, you know, the community is asked.

And then of course, you know, an eloquent, detailed description of how Whois affects this is more than appropriate it's crucial. But I - in a drafting team where all we're trying to do is put a series of things in sequence I think we border on a slippery slope if we start putting special favorite things in the otherwise pretty mundane document that we had prepared which is here's the sequence, end of story.

Fred, go ahead.

Fred Felman: Yeah I guess I disagree because, you know, we're trying to put something in sequence and actually the sequence is relevant to actually the work in the community.

And I think it's actually problematic that actually we don't say this especially since the community has spoken and they're spending \$400,000 on this action I think actually it indicates that the community has spoken that this is important because there aren't other policy development processes that we're spending \$400,000 on. So I would disagree and I would actually stand that we should say something about Whois in this.

Mikey O'Connor: Well, Greg, go ahead.

Greg Aaron: Well...

Mikey O'Connor: I'm starting to get a little frustrated with this.

Greg Aaron: I think also it's not our job to try to take the pulse of something else that's happening in the community. Our job is to put - consider the work of the RAP and put it in an order.

And the RAP didn't get into this issue; it didn't really come up in the interrelation of EDRP and Who is after almost a year of discussion. Also, regarding the footnotes and so forth, the RAP came to a unanimous consensus on this particular recommendation. And that was an achievement after a lot of work by representatives, you know, good effective representatives from the spectrum of stakeholders.

I think everything that's happening in here is layering on stuff which is extraneous and probably out of scope for the work of this implementation team. What I would suggest is that the changes in red be stricken and also the footnote number 2.

Faisal Shah: Yes, this is Faisal. I mean just one comment to that. I mean, I can understand that, Greg, but we were handed a spreadsheet that had had a number of fields, including dependency, and people filled it out and now we're talking about it in this particular working group.

It's almost like we shouldn't have any discussions about anything that had any impact whatsoever on the original RAP group, and then - and even though we're handed a spreadsheet with all these different fields, and we go forward.

So, I mean, there are people who had some comments on it and now we're all talking about it and now we're trying to introduce that into this document. And now...

Greg: Well, what we're trying to do is we're trying to discuss and make decisions about what's happening in the GNSO about who is - which is - I'm in the same place as Mikey which I'm getting a little uncomfortable.

Now I have proposed a recommendation where I was trying to address Joi's point that - I still put that language forward if we would like to include it about the interrelationship. I think it's good language because it's a little wordy but it's also precise, that's what I was going for. And I still put that out there for consideration.

Mikey O'Connor: Okay, let's see, Lisa's next. I'm going to set an arbitrary deadline of 40 minutes into the hour as the end of this discussion because we've consumed practically the whole call and this is our last call and I am going to be quite grouchy if we don't get this done today and thus miss the deadline for Cartagena. So let's snap it up, folks.

Lisa Rosaya: Okay, so you'll be happy to hear, Mikey, I have no comments on the notes portion. It was just Greg had raised a footnote issue. And I put the footnotes in there because in our call I know both Joi and I have raised issues with the ranking of the UDRP.

And the ranking was significantly impacted more so on the uniformity of contracts than on the cyber squatting issue by James' submissions which were a month after. So I just wanted to provide some transparency on that.

Mikey O'Connor: Okay, well, let's hold on that one. Let's nail down this WHOIS stuff first. James, go ahead.

James: I'm holding.

Mikey O'Connor: Okay, you're holding, all right. I offer the group the following choice, I'm okay with Greg's proposed language, I am also fine with the idea of striking it - striking number 2 all together. So those who would prefer to see something in

here, I would encourage you to support Greg's language and then I want to draw this one to a close.

Can we proceed with Greg's proposal and wrap this up? Okay, let's do that. Sorry to be the hard guy but dagnabbit, I'm not going to go through this much work and miss the deadline.

Marika? You get to go before James.

Marika Konings: Yes, good morning, I just wanted to ask a clarification. So the agreement is now two insert for number 2 the proposed language that Greg has put on the chat?

Mikey O'Connor: Right.

Marika Konings: Then would accuracy be a factor in finding some (unintelligible), etcetera? Okay, and on the first point did I understand correctly that we would strike, "Prior to engaging in any PDP process," was that correct?

Mikey O'Connor: Which...

Marika Konings: (Or probably something like that?) I thought earlier in the...

Greg: This is Greg. Yes, I had objected to that language because I think it's revisiting. And I think it had actually been withdrawn.

Woman: Yes.

Greg: The proposal had been withdrawn. So I think that language comes...

Marika Konings: Okay.

Greg: ...comes out.

Marika Konings: Okay, great, I just wanted to confirm that. Bye, that was it.

Mikey O'Connor: Okay, we still have 3, which I think is really - all right, I think we're now ready to dive into the point that James is in the queue for which is the later arrival, blah, blah, blah. So James, why don't you go ahead?

James: Yes, thanks, Mikey, James speaking. And I don't necessarily have a strong issue with this particular note. I'm not really sure who added this. But I do want to point out that there's, you know, that there's an implication I think in there that somehow this is affecting the perception of this particular issue or the ranking of this issue.

Whereas, you know, I think it could be said that that's also balancing (and versus) what we saw some out of the consensus test in the RAP. And I do want to point out that my rankings were incomplete, they were delayed and they were the result of kind of being put on the spot during one of the phone calls a while back where I didn't have the spreadsheet in front of me but was able to throw out a couple of rankings on some issues that were, you know, were on the fence and needed some other folks to weigh in on. So that was the context there.

So I think if transparency then is the goal then we need to state that differently.

Mikey O'Connor: Yes, as the guy putting you on the spot I would agree with your characterization of what happened. You got a thought on a better way to frame that, James? "I'm putting you on the spot again," he said, chortling.

James: Well, I guess I can probably take a stab at, you know, revising the language a little bit, but my question is does it need to be in here at all?

Mikey O'Connor: Okay, let's put that on the table. Anybody got any thoughts one way or the other? You know, this is part of my frustration, a lot of this came in pretty late and I do not see the value in it. So I'm not inclined to be enthusiastic and would like to be persuaded.

Lisa Rosaya: Mikey, this is Lisa, and I apologize for my late changes. It was just I was in Phoenix and so I had very limited time, and I apologize that it didn't get circulated until recently. So again, my apologies for the timing issue.

In our 10/25 call Joi and I both raised an issue about the ranking and we just noted our objections and asked that they be noted in the record. And you had confirmed that they would be. So for the first part of that, that's just I guess putting that in writing because it's never been there before.

Mikey O'Connor: I hate it when I do stuff like that.

Greg: This is Greg. So are we talking about number 3 or about the footnote?

Lisa Rosaya: Footnote 2.

Greg: Footnote number 2, okay.

Lisa Rosaya: Yes.

Greg: All right, thank you.

Lisa Rosaya: And I would be fine, I know you'd asked James for a different version, and I appreciate his sensitivities to the way it's worded. So maybe the leading in the latter part of the comment in the second sentence it reads, "In part these objections were also due to the allowance of a new member of the IDP to enter a ranking of this item one month after all other members submitted their rankings." Maybe deleting the rest of that sentence?

Mikey O'Connor: Where are we? I...

Lisa Rosaya: In footnote 2. It was in the one that I threw on the (unintelligible).

Greg: Oh, we're looking at Marika's version.

Mikey O'Connor: Yes, we're looking at Marika's which doesn't have that. I would prefer to just acknowledge the objection, that's I guess what I was thinking when I was saying stuff like that. I don't feel comfortable with the notion of stating that there was an objection and then re-ranking it. I think the ranking has to stand because what we're essentially acknowledging is that in some of these there's dispersion.

Lisa Rosaya: No, and I'm not proposing that it be re-ranked, I was just stating what happened and how it affected the rank.

Mikey O'Connor: Again, I'm fine saying, "Two members of the group objected to the ranking of this." But if we do this for every one where we have dispersion then we're basically blowing up the ranking. Because, you know, you can say essentially the same thing about almost all of these.

Joi White: But do we have any argument? This is Joi; do we have any concerns about the other ones? I don't think anybody else has raised that.

Greg: Mikey, if I may, this is Greg.

Mikey O'Connor: Yes, go ahead, Greg.

Greg: We had a similar issue in the RAP and the principle that was expressed by Chuck Gomes, who is the GNSO Chair, is that it is important for everyone's input to be accepted. And by that I mean if a particular member of the group comes in late, that's not the issue, the issue is whether or not their input was going to be recorded or not.

In this case we recorded James' input. He is a member of the group; he is from a stakeholder group that is not otherwise represented. So I think part of the issue here is somebody's objecting to a stakeholder group providing input which is problematic.

What we have done is we got everybody's rankings and everybody put their opinion in and we arrived at this thing being number 4 tied with - tied at number 4.

If somebody wants it ranked lower that's their opinion, but we can't change the rankings. And by making special callouts, I have the same concern that Mikey has. We are where we are. We ended up where we are. If you don't like it there's probably something - and it's a document for everybody to decide at one point or another, but we start to revisit the RAP yet again.

I think this footnote doesn't have - I'm very uncomfortable with it being in the document for those reasons.

Mikey O'Connor: I would - I think footnotes 2 and 3 I oppose. Lisa, go ahead.

Lisa Rosaya: So this is Lisa. So I would - how about this, I think this is a nice compromise, but I'll see if you agree. If we leave in the first sentence of footnote 2, take out the remainder of footnote 2 and we can take out footnote 3, but if we attach the sequencing chart on the matrix, just so that if the council's interested in seeing the dispersion they have a document that shows it.

Mikey O'Connor: So the document that I'm looking at only has one sentence in footnote 2. So when you say the second sentence are you talking about the one that was distributed just before the meeting?

Lisa Rosaya: Yes, so it would be the one Marika had sent around earlier. So it would just be the one that you see likely on Marika's.

Mikey O'Connor: Greg, go ahead.

Greg: Well, also to talk about the process, ultimately all of this is fodder for the council to take up. If any member of the council wants to raise any of these issues during their deliberations they can.

And I'm assuming they'll give everything that's been produced a thorough reading and then they'll have their discussions and they'll decide what to do, and they'll take anything they want to into account.

At this point these additions do seem a little prejudicial and they're coming so late it's not particularly - it's not easy to deal with these. I mean, I suggest that they be removed.

Mikey O'Connor: Okay, we have the sort of standard consensus decision making problem which is consensus decision making always works if you have enough time. But we don't have enough time to get through this in a graceful way. And so I'm going to ask that the folks on the call, use your check marks in the Adobe chat room and check Agree if you want to see these removed. And do not check Agree if you want them in and we'll see sort of what the sense of the group is.

Who's David Donahue? I don't know that name.

Greg: David Donahue, can you identify yourself on the phone, please?

David Donahue: I'm here.

Mikey O'Connor: Who are you?

David Donahue: Excuse me?

Mikey O'Connor: Who are you?

David Donahue: Who am I?

Mikey O'Connor: Yes.

David Donahue: I've been present on all calls but two.

Mikey O'Connor: Dang.

David Donahue: I'm...

Mikey O'Connor: I'm such a louse. I'm sorry.

David Donahue: That's okay.

Mikey O'Connor: What's your affiliation?

David Donahue: I'm a partner at Fross Zelnick Lehrman & Zissu in New York. And I'm a member of the Internet committee, Contractual Relations subcommittee.

Mikey O'Connor: Okay. Well, welcome, I guess. I am just totally befuddled, people. I don't know what to say at this point. I'm feeling like I'm getting blindsided at the very end of a process and I'm quite grouchy about these additions that came in this week.

And, you know, I think what I'm going to do is I'm going to look across stakeholder groups rather than individuals, and say that the representative from the registries and the representative from the registrars and the two representatives from the BC are opposed to these additions.

And that the folks from the IPC seem to want them in and we thus have rough consensus to exclude them. I'm going to do one of those Chair things that I

hate to do. But I refuse to let this be delayed beyond today because we have to get this to Cartagena.

And so for those of you who object I would encourage you to submit a note to the council stating your objection, but I think these have got to come out. They're too late and they - for all the reasons that we've discussed, they do not enhance our report.

And it's - in fact, take us right back into the very long discussion that we had during the actual working group. Greg, go ahead.

Greg: Oh, I'm trying to take mine down.

Mikey O'Connor: Oh, okay. Fred, go ahead.

Frederick Feldman: I guess I understand that this is coming late. I do know that Faisal volunteered to help Greg draft this and that we would have had actually IPC input into this had he accepted that. But he did not accept it. And so this is coming late I think because of the process that actually ensued. So I actually disagree with this and feel strongly that this is problematic.

Mikey O'Connor: So basically we're going to blow this up, people, is really now...

Greg: Fred, this is Greg. You had mentioned there was an offer to draft something and it was turned down. I'm not exactly sure what you're referring to.

Faisal Shah: Actually, I asked Mikey if I could contribute to the letter but I think you guys had already made a decision to kind of get going on it with Marika's help and stuff. So I (unintelligible).

Greg: I think everybody has had - has been welcomed to contribute to the letter and provide input.

Frederick Feldman: And now you're shooting down a proposal by Lisa and others and this is problematic.

Greg: Well, we're not saying that the opportunity has not been there, we're talking about the merits of the issue.

Frederick Feldman: We opportunity is now to actually make a change and you're shouting it down.

Greg: I think that's quite unfair, Fred. What I said was, everyone has had opportunities to propose changes. Mikey is saying these came at the end in are substantive.

We are trying to now discuss the merits of the inclusions, so just to be clear; everyone's had opportunities over a number of weeks to suggest changes to the letter. I don't think it would be appropriate to say that people didn't have a chance. That's all.

Mikey O'Connor: Yes, and I tend to agree, I mean, we've been working on this letter for at least two maybe three weeks. And, you know, what we've come down to is a point in the discussion where we have representatives from three stakeholder groups going one way and representatives from one stakeholder group going another and so I think what we have to do is state that and just say, "All right, we didn't have consensus on this one. We have rough consensus across three out of four stakeholder groups."

But we, you know, it's either that or just stop, and write a little memo to the council that say, "Dear Council, we can't - we couldn't do it." And I just can't accept that, given the amount of work that people have done at this stage of the game. So my statement stands.

I flipped through the rest of this. So I'm saying that footnotes 2 and 3 are gone and in that note, clause number 3 is also gone, just to be clear. And if I

roll forward, are there any other substantive ones in here, Marika? Rolling as fast as I can go.

Marika Konings: This is Marika. I don't think there were any other edits.

Mikey O'Connor: Okay, so that's it. Lisa, go ahead.

Lisa Rosaya: Hi, Mikey, so I - in the chat, I just reiterated that - just the first sentence, because it was an omission from the 10/25 call that never made it in that I would like to have that in if at all possible. And if we could attach the sequencing chart as an annex, that shouldn't be too much trouble, because it's in the 11/1 matrix.

Mikey O'Connor: Let's do two pieces here. Footnote 2, I'm fine with the first half of that. I am not fine with the notion of re-sequencing this thing, so I would accept a footnote that says something along the lines of, "Two members of the (IDP) objected to the rankings of this item," period.

That's what I was signing up for on the call. I'm not signing up for essentially a re-ranking proposal. Are you okay with that?

Lisa Rosaya: I just think it's ambiguous because that might mean people thought it should be higher, some people thought it should be lower. That's the only thing...

Mikey O'Connor: How about, two members of the (IDP) objected to the ranking of this item and suggested lower rankings.

Lisa Rosaya: That's fine. Yes.

Mikey O'Connor: Okay, let's do that. And sticking the dispersion matrix in is okay with me. I think that people...

Greg: This is...

Mikey O'Connor: You know, the trouble is, it's a little uneven. James didn't really do the process the same as everybody else did, so it sort of puts him back on the pot again. James, are you okay with that?

James: Yes, I always was that (shit).

Greg: Yes. Mikey, this is Greg. My - the dispersion ranking is - it's interesting. It's, to some extent, people's evaluation of the amount of work that a particular recommendation would involve. It's also a reflection of implementation team members as opinion as to the value of the recommendation.

Mikey O'Connor: Right, right.

Greg: Which is, that one's kind of weird because the RAP was kind of supposed to figure out the value of the recommendations, right?

Mikey O'Connor: Right, and I'm looking at the matrix, trying to figure out which one we would actually use.

Marika Konings: This is Marika; could I make a - maybe make a suggestion?

Mikey O'Connor: Yes.

Marika Konings: Because as well as noting Berry's note in the chat room and I have a bit of similar issue that I don't know how easy it will be just to integrate that particular chart into a Word document. It might make it messy and might look funny.

But what could be done, because we talk in the letter about the matrix, would it be acceptable to add a footnote there and say, "For the final version of the matrix, please see," - and then include the link to the Wiki workspace where we'll post that final version where people can see all the different categories,

the individual rankings that were done by the different members, so to have that as a record linked in here, would that be an acceptable compromise?

Mikey O'Connor: And in that case, what we would do is put the whole spreadsheet in, right?

Marika Konings: Right.

Mikey O'Connor: Oh.

Marika Konings: We'd be linked to the whole spreadsheet so people could see the sequence, but also the other items that were included there, so could see the whole Word product.

Mikey O'Connor: Yes. I think the one caution I have about that is that those were people's initial impressions. We never really went back and updated the spreadsheet to reflect any movement, because there was a fair amount of movement as we went through the ranking, where people were saying, "Well, I could live with that," blah, blah, blah.

And so I think we would have to put in that footnote a caveat that says this was the - a working document that was, you know, I never attempted to update it to reflect people's final positions, so it was basically a starting point.

Lisa, go ahead.

Lisa Rosaya: Oh, sorry, that's old.

Mikey O'Connor: It's old? Okay. So I think with that caveat, I'd be okay, I mean, this spreadsheet is very much a working document that we abandoned when we switched over to the letter and so it would have to be surrounded with lots of caveats that say that, but I'm fine with putting it out there with those caveats on it. Marika? Is that a...

Marika Konings: That doesn't (unintelligible) no, just to confirm, then, so I would then add a footnote in the first mention of the matrix, I think in the third paragraph in the letter that would say like, "Here's a link to that matrix. Do note that this is - this was a working document that doesn't reflect the final findings as expressed in Annex 2 of this letter of Annex 1"?

Mikey O'Connor: Yes, perfect. That's perfect. I'm fine.

Marika Konings: And if everyone would agree, then I'll make those changes and circulate this letter to the list so people can have a, you know, another two or three hours to see if there's anything really, you know, missing, any spelling errors, you know, small edits before sending it to the council list. Would that be - would that work?

Mikey O'Connor: Yes, I would want to emphasize that we are only catching non-substantive stuff. I don't want to have any more substantive conversations about this letter. You know, period.

Greg: This is Greg. Also, for him, how many more hours will you be on duty, Marika?

Marika Konings: This is Marika.

Greg: Because you would be the one to send it to the council, right?

Marika Konings: Yes, this is Marika. A couple more because there's another working group call later tonight in I think, 4-1/2 hours, so I'll definitely be online until that time.

Greg: Okay, so we need to set a deadline at which point Mikey says, "Here's the final, please send it."

Marika Konings: How about 2100 UTC?

Mikey O'Connor: Say again?

Marika Konings: Twenty-one hundred UTC? Three hours...

Mikey O'Connor: What is it now, UTC?

Marika Konings: Now it's, I think, 1600 UTC.

Greg: Sixteen hundred? Do we need that much time? That's five hours.

Mikey O'Connor: Yes, why don't we say three hours from now? So 1900 UTC. So for me in the Midwest, it would be 1:00 p.m, East Coast time it'd be 2:00 p.m. and that gets it back to you, Marika, in time for you to turn it around to the list.

Marika Konings: Okay.

Mikey O'Connor: It's one minute after the hour. Feel like I've run a marathon and I just fell over the finish line. People, I appreciate all the hard work and I also appreciate the very difficult time we just went through.

I wish we didn't have to go through it and I wish it hadn't gone that way. But I am very glad that we got done and I really appreciate all the work that you've put in and thank you all for your help on this even though we had a pretty tough call today. Friends, I hope afterwards. Any final comments from anybody? Greg? Anybody? Group?

Greg: Yes, I'd like to echo Mikey's sentiments. This is hard work, not always easy, but good debate leads to good results. I'd like to thank Mikey, who as always has been working very hard and I think done a very evenhanded job. I'd also like to thank our staff support, Marika, Margie and Gisella for the help they've lent us over the last couple of months.

Mikey O'Connor: Okay, I think we're going to call it a day. For those of you coming to Cartagena, I'll see you there and for those of you not, maybe I'll see you in San Francisco. It was great meeting some of you and David, I'm so sorry that I didn't know who you were, dreadful.

David Donahue: Yes, that's probably because of the first call I had to - I lost cell phone reception when I was just about to introduce who I was and I never got around to doing that introduction in any of the later calls but at least better late than never, I guess.

Mikey O'Connor: Yes, yes, okay folks.

Man: Hey, thanks, Mikey. Appreciate it.

Mikey O'Connor: Take care, all. Talk to you later. Bye-bye.

Marika Konings: Thank you.

Mikey O'Connor: Gisella, I think we can end the recording and wrap it up, that's great.

Gisella Gruber-White: Thanks very much. Thank you, (Miriam), for recording for me.

Marika Konings: Mikey?

Mikey O'Connor: Yes?

Marika Konings: Can I ask you a quick question?

Mikey O'Connor: You bet.

Marika Konings: What is the latest version of the matrix?

END