# ICANN Transcription
# GNSO Council
# Thursday, 24 September 2020 at 12:00 UTC

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The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page:
https://gnso.icann.org/en/group-activities/calendar [gnso.icann.org]

**List of attendees:**
Nominating Committee Appointee (NCA): **– Non-Voting** – Erika Mann
**Contracted Parties House**
Registrar Stakeholder Group: Pam Little, Michele Neylon, Greg Dibiase
gTLD Registries Stakeholder Group: Maxim Alzoba, Keith Drazek, Sebastien Ducos
Nominating Committee Appointee (NCA): Tom Dale
**Non-Contracted Parties House**
Commercial Stakeholder Group (CSG): Marie Pattullo, Scott McCormick, Philippe Fouquart, Osvaldo Novoa, John McElwaine, Flip Petillion
Non-Commercial Stakeholder Group (NCSG): Juan Manuel Rojas, Elsa Saade (apology, proxy to James Gannon), Tatiana Tropina, Rafik Dammak, James Gannon, Farell Folly
Nominating Committee Appointee (NCA): Carlton Samuels
**GNSO Council Liaisons/Observers :**
Cheryl Langdon-Orr– ALAC Liaison
Julf (Johan) Helsingius– GNSO liaison to the GAC
Maarten Simon – ccNSO observer

**Guests:** Becky Burr and Matthew Shears (GNSO-appointed ICANN Board members), Phil Corwin and Brian Beckham (RPM Co-Chairs)

**ICANN Staff**
David Olive -Senior Vice President, Policy Development Support and Managing Manager, ICANN Regional
Marika Konings – Senior Advisor, Special Projects (apologies)

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Mary Wong – Vice President, Strategic Community Operations, Planning and Engagement
Julie Hedlund – Policy Director
Steve Chan – Policy Director
Berry Cobb – Policy Consultant
Emily Barabas – Policy Manager
Ariel Liang – Policy Support Specialist
Caitlin Tubergen – Policy Senior Manager
Nathalie Peregrine – Manager, Operations
Terri Agnew - Operations Support - GNSO Lead Administrator
Andrea Glandon - SO/AC Collaborations Services

NATHALIE PEREGRINE:     Good morning, good afternoon, and good evening everybody and welcome to the GNSO Council meeting on the 24th of September, 2020. Would you please acknowledge your name when I call it? Thank you ever so much. Pam Little?

PAM LITTLE:     Here.

NATHALIE PEREGRINE:     Sebastien Ducos?

SEBASTIEN DUCOS:     I'm here.

NATHALIE PEREGRINE:     Maxim Alzoba?

MAXIM ALZOBA:          Here.

NATHALIE PEREGRINE:    Keith Drazek?

KEITH DRAZEK:          Here.

NATHALIE PEREGRINE:    Greg DiBiase?

GREG DIBIASE:          Here.

NATHALIE PEREGRINE:    Michele Neylon? I think Michele is having laptop issues but he is on the call. Tom Dale?

TOM DALE:              Here.

NATHALIE PEREGRINE:    Marie Pattullo?

MARIE PATTULLO:        Here. Thank you.

NATHALIE PEREGRINE:     Thank you, Marie. Scott McCormick? I don't see Scott in the Zoom room yet. John McElwaine?

JOHN MCEWAINE:     Here.

NATHALIE PEREGRINE:     Thank you. Flip Petillion?

FLIP PETILLION:     Here. Thank you, Nathalie.

NATHALIE PEREGRINE:     Thank you, Flip. Philippe Fouquart?

PHILIPPE FOUQUART:     Here.

NATHALIE PEREGRINE:     Osvaldo Novoa?

OSVALDO NOVOA:     Here.

NATHALIE PEREGRINE:     Elsa Saade has sent her apologies for today and she's given her proxy to James Gannon. James Gannon?

JAMES GANNON:           [inaudible].

NATHALIE PEREGRINE:     Thank you. Rafik Dammak?

RAFIK DAMMAK:           Here.

NATHALIE PEREGRINE:     Tatiana Tropina?

TATIANA TROPINA:        Here.

NATHALIE PEREGRINE:     Farell Folly?

FARELL FOLLY:           Here.

NATHALIE PEREGRINE:     Juan Manuel Rojas?

JUAN MANUEL ROJAS:      Here.

NATHALIE PEREGRINE:     Carlton Samuels? I do not see Carlton in the Zoom room yet. Cheryl Langon-Orr?

CHERYL LANGDON-ORR:    Here, Nathalie.

NATHALIE PEREGRINE:     Thank you, Cheryl. Erika Mann? I don't see Erika either. We'll follow-up once the roll call is finished. Julf Helsingius?

JULF HELSINGIUS:        Here, Nathalie. Thank you.

NATHALIE PEREGRINE:     Maarten Simon? I don't see Maarten either. So, we have GNSO appointed board members in the room with us, Becky Burr and Matthew Shears. Welcome.

We'll also be welcoming the RPM co-chairs, Brian Beckham and Phil Corwin, for their related agenda item later. Kathy Kleiman has sent her apologies.

We also have apologies from David Olive.

And the rest of staff on the call is Steve Chan, Mary Wong, Julie Hedlund, Caitlin Tubergen, Ariel Liang, Emily Barabas, Berry Cobb, Terry Agnew, Andrea Glandon; and myself, Nathalie Peregrine.

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I'd like to remind you all to please remember to state your names before speaking for recording purposes. And a reminder that we're in a Zoom webinar room. All councilors have been promoted panelists. You can activate your mics and participate in the chat as per usual.

Please remember to set your chat to all panelists and attendees, so our attendees can observe the chat at the same time. A warm welcome to observers on the call who can now follow the council meeting directly. Observers do not have access to their microphones, nor to the chat option.

As a reminder, all those who take part in the ICANN multi-stakeholder process are to comply with expected standards of behavior.

Thank you ever so much, Keith, and it's over to you.

KEITH DRAZEK: Thank you very much, Nathalie. And hello, everybody. Welcome. This is Keith Drazek, GNSO chair. Welcome to the GNSO Council call of 24 September 2020. We will go through the agenda momentarily but I'd like to ask if there are any updates to statements of interest from our councilors? Any updates to statements of interest?

Okay, not seeing any hands, not hearing any. We will move on to the review of our agenda.

So, after we get through our administrative items, we will move to opening remarks, but essentially the projects list and the action

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items list that we typically review at the beginning of these meetings has been and will be done on the list in the interest of time. We have a very busy agenda today. We have an important vote scheduled that has some complexity to it in terms of the number of votes that we need to take, as well as statements that I understand various councilors and stakeholders and constituencies will want read into the record. So we're going to need to move fairly expeditiously through out agenda.

We have added an additional 30 minutes to the end of this call if needed. I hope that we will not need to get into that full 30 minutes, but it's there in the event that we do. I appreciate everybody's flexibility in that regard. A lot going on this meeting. This is an important meeting for a number of reasons as we head into ICANN 69 next month. Lots to talk about.

So, our agenda today on item #3 is our consent agenda. We will have from the action decision radar, have basically a decision to initiate the IGO/INGO access to curative rights protection mechanisms work track on IGO protections and to essentially initiate the call for volunteers and the call for a work track chair.

Then, again, approval of the 2020 Customer Standing Committee slate—the CSC slate—in accordance with section 17.2d of the ICANN bylaws and the CSC charter. This is the approval of the membership and the members are listed in the agenda as we see below. So those are our consent agenda items and then we will move on to the next. Scrolling down. Thank you very much.

Item #4 on our agenda today is the council vote on the adoption of the final report of the EPDP on the temporary specification phase

2. We have allocated 30 minutes to this, but as I noted just a moment ago, we understand that there's at least four statements to be read and possibly more that we'll need to make sure that we allocate time for. The plan for this is to actually have our vote and then to have the opportunity for each and any member who would like to make a statement or read something into the record. And I certainly encourage any and all groups, if they have something that they would like to have submitted to the record, to send that to the council list.

The next item on the agenda will be a council discussion on the PCR, the Projects Change Request, that we have received from the RPM PDP Working Group. As Nathalie mentioned, we will be joined by the co-chairs of the RPM PDP Working Group. They're available to answer any questions, but this is the council's consideration of the PCR requesting an additional 40 days for the delivery of the Phase 1 final report. John McElwaine will introduce that topic for us as the GNSO Council liaison to the PDP.

Item #6 is a council discuss on the EPDP temp spec Phase 2 proposed next steps for our priority two items. These are the items that were not on the critical path for the SSAD that we're considering in our earlier vote but are still important items for work in terms of the EPDP Phase 1 and Phase 2 work. So this is basically a discussion of our next steps. We've had a small team together over the last several months developing a proposed plan and Rafik has been leading that effort. He will introduce that topic when we get to it.

Item #7 will be a council discussion on implementation concerns for EPDP Phase 1 recommendation 7 as it relates to the thick

WHOIS transition policy. I think, as everybody is aware, we received a written report from Sebastien Ducos, our GNSO Council liaison to the Phase 1 IRT ten days ago, prior to the document deadline for this meeting and we'll have an opportunity to have a conversation with Sebastien on that as far as next steps. I will hand that over to Sebastien to introduce the topic, and then Pam and Rafik will together work to manage this agenda item for us.

Then, item #8, council discussion which is a Q&A with the GNSO chair candidate, Philippe Fouquart. So I think as everybody is aware, we have one candidate for the GNSO chair position and this is an opportunity for all of us, as the current and in some cases outgoing councilors to have a Q&A with Philippe. So we look forward to that and we'll talk a little bit about the process for the election as we head into next month.

And then item #9 is any other business, which we'll talk about preparation for ICANN 69 bilateral meetings with the ICANN Board, ccNSO, GAC, and SSAC and then looking ahead to the strategic planning session for the GNSO Council in January which will be of course conducted remotely but obviously important to start getting that on folks' radar.

So, with that, are there any comments, any questions, any suggested edits to the agenda for today's meeting?

Not seeing any hands. I'd like to also take a moment just to acknowledge that we have our council participants. Welcome to the ICANN board members who have joined us and to note that we have 39 attendees participating as observers and I would like

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to welcome you all to this call of the GNSO Council. So, thank you very much. If we could move back to the top of the agenda on the screen, thank you.

With that, I'd like to just to note that the status of the minutes for the previous council meetings, per the GNSO operating procedures, the minutes of the 23 July 2020 were posted on the 12th of August and the meeting minutes for the council meeting of the 20th of August were posted on the 4th of September. So, thank you for that.

All right, item #2. Let's move right into it. As I noted, the action item list and the projects list have taken place. The review of that have taken place over the email list. I would like to ask if anybody has any questions or comments or concerns about either the projects list or the action item list that they'd like to raise at this time. And while you're thinking about that, I just want to note that while we're deferring this to the list this meeting, in the interest of time and because we have some substantive issues to deal with, this is a critically important part of our monthly review of status of various work items and work tracks and I really encourage people, if you haven't had the opportunity, is to make sure that you're reviewing the documents that have been circulated and making sure that you are on board, understand where we are and raising any questions if you have them.

Not seeing any hands. Let us go ahead and move forward then into our consent agenda. And as I noted, we have … I'll just read these into the record for the consent agenda and then we can move to the consent agenda vote.

**EN**

So, we have a decision in respect to recommendation 5 from the IGO/INGO access to curative rights protection mechanisms final report, and in accordance with the addendum to the RPMs carter adopted by the council on the 23rd of January 2020, the council shall initiate both the expressions of interest process to identify a single qualified work track chair and issue a call for members and observers to join the IGO work track.

Just to note this is something that we have coordinated with our GAC colleagues and our IGO colleagues who have indicated that they are ready and willing to engage in this process when the GNSO Council initiates the work. So that will effectively take place today.

And then 3.2 on our agenda, approval of the 2020 Customer Standing Committee slate in accordance with section 17.2d of the ICANN bylaws and per the CSC charter. The full membership of the CSC must be approved by the GNSO Council. The council approves the full slate of members and liaisons, nothing that the SSAC has declined a liaison this cycle.

So, with that, Nathalie, I will hand it over to you to conduct the consent agenda vote.

NATHALIE PEREGRINE:    Thank you very much, Keith, and I would like to note for the record that I don't believe we have Carlton Samuels, nor Scott McCormick on the call at this time.

All right. Would anyone like to abstain from this motion? Please say aye. Hearing no one, would anyone like to vote against this motion? Please say aye.

PAM LITTLE:             Aye.

NATHALIE PEREGRINE:     I'm sorry, who was that?

PAM LITTLE:             Sorry, that was a mistake.

NATHALIE PEREGRINE:     So, Pam, just to confirm, you are not voting against this motion?

PAM LITTLE:             No. I'm sorry, I misheard you.

NATHALIE PEREGRINE:     All right. No problem at all. So, just for the record, we have no abstentions, no objections, on this vote. Would all those in favor of the motion please say aye?

PARTICIPANTS:           Aye.

NATHALIE PEREGRINE:     James Gannon, proxy for Elsa Saade, please say aye.

JAMES GANNON:           Aye.

NATHALIE PEREGRINE:     Thank you. With no abstention, no objection, the motion passes.

KEITH DRAZEK:           Okay. Thank you very much, Nathalie. Thanks, everyone for that. And let us move on to the next agenda item.

Okay. As I noted, item #4 is a council vote on the adoption of the final report of the Expedited PDP on the temporary specification Phase 2. I am going to just note this is obviously an important vote for the GNSO Council. I understand that there are a number of councilors who would like to make statements following the vote that we are about to take, but with that, I am going to hand it over to Rafik for the presentation of the motion. So, Rafik, over to you. Thank you.

RAFIK DAMMAK:           Okay. Thanks, Keith. And thanks to everyone. So, I think we can start with reading the resolved. So we can skip the whereas.

First, the GNSO Council (a) adopts and recommends to the ICANN Board directors the adoption of recommendation 1-18, to establish a system for standardized access, disclosure to non-public registration data (b) if 1a is adopted, noting some of the

questions surrounding the financial and sustainability of SSAD, and some of the concerns expressed within the different minority statements.

The GNSO Council requests a consultation with the ICANN Board as a part of the delivery of the GNSO Council recommendations report to the ICANN Board to discuss these issues, including whether further cost-benefit analysis should be conducted before the ICANN Board considers all the SSAD-related recommendations for adoption.

2. The GNSO Council adopts and recommends to the ICANN Board of directors the adoption of recommendation 19-22 that address a number of priority two topics.

3. The GNSO Council directs ICANN Org to convene an implementation review team to work on the implementation of these recommendations. If acceptable to the IRT as well as ICANN Org, the GNSO Council has no objection if the existing EPDP Phase 1 Implementation Review Team will take on this task, recognizing that there may be a need to refresh membership as well as align the implementation with any work that may remain from the Phase 1 implementation.

The Implementation Review Team will be tasked with assisting ICANN Org in developing the implementation details for the EPDP recommendation, evaluating the proposed implementation of the recommendations as approved by the board and working with ICANN staff to ensure that the resultant implementation conforms to the intent of the approved recommendations.

The Implementation Review Team should operate in accordance with Implementation Review Team principles and guidance approved by the GNSO Council in June 2015.

4. The GNSO Council extends its sincere appreciation to the chair, Janis Karklins, vice chair Rafik Dammak, EPDP team members, alternates, and support staff of the EPDP team for their tireless efforts to deliver this final report, recognizing that the council may direct that some further work is undertaken on a number of priority 2 items that were not addressed in the Phase 2 final report.

So, that's for the motion. So, let's see if we have anyone in the queue.

KEITH DRAZEK:            Thank you, Rafik. I just want to note that, as I noted to the council list via email yesterday, just wanted to let you know that the process that we're going to follow here will require three votes. So the resolve clauses that we have before us are 1a and 1b, 2, 3, and 4. The process that we will follow when we get to the vote is the first vote will be on resolved clauses 1a and 1b together. Our second vote will be resolved clause 2 alone. And then vote 3 will be the remaining items, which include the whereas clauses and resolved clause 3 and 4.

So, just to make sure that everybody, including our attendees, are aware of the process that we're about to undertake. Three votes, the first on 1a and 1b, the second on 2, and then the third on the whereas clauses and 3 and 4. So, I just want to make sure that, if

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anybody has questions or concerns about that, you're able to raise them now. But that's the process that we're about to initiate. Rafik, I'll hand it back to you.

RAFIK DAMMAK:      Thanks, Keith, for the clarification. I think that's clear about how we will proceed for the vote. So, we'll see if there is any comment or clarifying question. So, I think it's a good time to intervene. Otherwise, I think we can move to the next step. Keith?

KEITH DRAZEK:      Yeah. Sorry. Thank you, Rafik. Just one additional point here is just to let everybody know for the record, and for the attendees who may not be following this as closely, the GNSO Council received the final report from the EPDP Phase 2 team at the end of July, and at that time we had received a request for an extension of time, so a couple of different SO and AC groups, specifically the GAC and the SSAC, could have additional time to submit their minority statements and there are a number of minority statements that were included, along with the EPDP Phase 2 final report package.

So, I just want to note that we received the final report from the EPDP team at the end of July. We received the minority statements—all of the minority statements—by the end of August and we are now approaching the end of September. So this final report has been available for review and consideration for quite some time and I just wanted to note that in terms of the process that we followed as the GNSO working with the EPDP team,

GNSO Council, and we are now preparing for the vote. So, just a little bit of context for everybody that might be listening.

So, Rafik, thank you. Back to you.

RAFIK DAMMAK: Thanks, Keith. I think you clarified in terms of the process, how we will vote and also explaining how the timeline [we used] since the reception of the report. Keith, is it an old or new hand?

KEITH DRAZEK: Old hand. Thanks, Rafik.

RAFIK DAMMAK: Well, I see nobody in the queue or any comment. I don't see anything else we can add at this stage. I think we are clear in terms of process. So, with that, maybe over to you, Keith, [inaudible] Nathalie, we can start the vote.

KEITH DRAZEK: Yes. Thank you, Rafik. Nathalie, please go ahead and start the first vote.

NATHALIE PEREGRINE: Thank you very much, Keith. So, just a note before we start the votes. I don't see Scott McCormick in the room and that would mean that we would need to send Scott an absentee ballot after

the vote has been live here. So I will not be able to announce the vote results until Scott has voted via absentee ballot.

KEITH DRAZEK: Okay. Thank you, Nathalie. And I know that staff is trying to reach out to him. Thank you.

NATHALIE PEREGRINE: All right. Thank you. So, this is a roll call vote and I will call out your names. Tatiana Tropina? Oh, hold on. Scott, I believe, has just joined.

SCOTT MCCORMICK: Sorry, Nathalie. I'm here.

NATHALIE PEREGRINE: All right. Perfect. So, I will be able to announce the vote results. So, just to confirm that we are voting on resolved clauses 1a and 1b. Tatiana Tropina?

TATIANA TROPINA: I vote yes.

NATHALIE PEREGRINE: Michele Neylon?

MICHELE NEYLON: Yes.

NATHALIE PEREGRINE:     John McElwaine?

JOHN MCELWAINE:     No.

NATHALIE PEREGRINE:     Sebastien Ducos?

SEBASTIEN DUCOS:     Yes.

NATHALIE PEREGRINE:     James Gannon for Elsa Saade?

JAMES GANNON:     Yes.

NATHALIE PEREGRINE:     James Gannon for yourself.

JAMES GANNON:     Yes.

NATHALIE PEREGRINE:     Marie Pattullo? Marie Pattullo?

MARIE PATTULLO:          I'm sorry. I hit the wrong button, Nathalie. No.

NATHALIE PEREGRINE:     Mazim Alzoba?

MAXIM ALZOBA:            Yes.

NATHALIE PEREGRINE:     Carlton Samuels?

CARLTON SAMUELS:        Yes.

NATHALIE PEREGRINE:     Flip Petillion?

FLIP PETILLION:          No.

NATHALIE PEREGRINE:     Rafik Dammak?

RAFIK DAMMAK:           Yes.

NATHALIE PEREGRINE:     Farell Folly?


FARELL FOLLY:           Yes.


NATHALIE PEREGRINE:     Juan Manuel Rojas?


JUAN MANUEL ROJAS:      Yes.


NATHALIE PEREGRINE:     Tom Dale?


TOM DALE:               Yes.


NATHALIE PEREGRINE:     Keith Drazek?


KEITH DRAZEK:           Yes.


NATHALIE PEREGRINE:     Philippe Fouquart?

PHILIPPE FOUQUART:     Yes.


NATHALIE PEREGRINE:     Pam Little?


PAM LITTLE:     Yes.


NATHALIE PEREGRINE:     Scott McCormick?


SCOTT MCCORMICK:     No.


NATHALIE PEREGRINE:     Greg DiBiase?


GREG DIBIASE:     Yes.


NATHALIE PEREGRINE:     Osvaldo Novoa?


OSVALDO NOVOA:     Yes.

NATHALIE PEREGRINE:    Thank you very much. For the Contracted Party House, we have seven votes in favor and none against. For the Non-Contracted Party House, we have nine votes in favor and four against.

The motion passes. We have 100% in the Contracted Party House and 69.23% in the Non-Contracted Party House.

KEITH DRAZEK:    Thank you very much, Nathalie. This is Keith Drazek and let us move directly to the next vote of resolved clause #2.

NATHALIE PEREGRINE:    Thank you very much. Osvaldo Novoa?

OSVALDO NOVOA:    Yes.

NATHALIE PEREGRINE:    Sebastien Ducos?

SEBASTIEN DUCOS:    Yes.

NATHALIE PEREGRINE:    Tatiana Tropina?

TATIANA TROPINA:           Yes.

NATHALIE PEREGRINE:        Marie Pattullo?

MARIE PATTULLO:            Yes.

NATHALIE PEREGRINE:        Maxim Alzoba?

MAXIM ALZOBA:              Yes.

NATHALIE PEREGRINE:        Tom Dale?

TOM DALE:                  Yes.

NATHALIE PEREGRINE:        Flip Petillion?

FLIP PETILLION:            Yes.

NATHALIE PEREGRINE:     James Gannon for Elsa Saade?

JAMES GANNON:     Yes.

NATHALIE PEREGRINE:     James Gannon for yourself?

JAMES GANNON:     Yes.

NATHALIE PEREGRINE:     Sebastien Ducos? Sorry, you voted already. My apologies. Keith Drazek?

SEBASTIEN DUCOS:     You already called me, but yes still.

NATHALIE PEREGRINE:     Thank you. Keith Drazek?

KEITH DRAZEK:     Yes.

NATHALIE PEREGRINE:     Greg DiBiase?

GREG DIBIASE:              Yes.


NATHALIE PEREGRINE:       Farell Folly?


FARELL FOLLY:             Yes.


NATHALIE PEREGRINE:       Philippe Fouquart?


PHILIPPE FOUQUART:        Yes.


NATHALIE PEREGRINE:       Scott McCormick?


SCOTT MCCORMICK:          Yes.


NATHALIE PEREGRINE:       Carlton Samuels?


CARLTON SAMUELS:          Yes.

NATHALIE PEREGRINE:     Pam Little?

PAM LITTLE:     Yes.

NATHALIE PEREGRINE:     Rafik Dammak?

RAFIK DAMMAK:     Yes.

NATHALIE PEREGRINE:     Juan Manuel Rojas?

JUAN MANUEL ROJAS:     Yes.

NATHALIE PEREGRINE:     John McElwaine?

JOHN MCELWAINE:     Yes.

NATHALIE PEREGRINE:     Michele Neylon?

MICHELE NEYLON: Yes.

NATHALIE PEREGRINE: Thank you very much. For the Contracted Party House, we have seven votes in favor and no objections, no abstentions. For the Non-Contracted Party House, we have 13 votes in favor and no objection nor abstention.

This gives the Contracted Party House in support with 100% and the Non-Contracted Party House in support, too, with 100%. Thank you, Keith.

KEITH DRAZEK: Thank you very much, Nathalie. Let us move directly to the vote on the resolved clauses 3 and 4. And as we lead into that, if anybody has statements that they would like to make, if you would please indicate so in our chat so I can start working on the process and order of the statements. So, please do that. Let me know. And let's move to the vote on 3 and 4. Thank you, Nathalie.

NATHALIE PEREGRINE: Thank you very much. So, just to be clear, we're voting on the remaining items, which are the whereas clauses and resolved clauses 3 and 4. Pam Little?

PAM LITTLE: Yes.

NATHALIE PEREGRINE:     Rafik Dammak?

RAFIK DAMMAK:     Yes.

NATHALIE PEREGRINE:     Scott McCormick?

SCOTT MCCORMICK:     Yes.

NATHALIE PEREGRINE:     Thank you. Maxim Alzoba?

MAXIM ALZOBA:     Yes.

NATHALIE PEREGRINE:     Thank you. Farell Folly?

FARELL FOLLY:     Yes.

NATHALIE PEREGRINE:     Osvaldo Novoa?

OSVALDO NOVOA:          Yes.


NATHALIE PEREGRINE:     Flip Petillion?


FLIP PETILLION:          Yes.


NATHALIE PEREGRINE:     Michele Neylon?


MICHELE NEYON:          Yes.


NATHALIE PEREGRINE:     Marie Pattullo?


MARIE PATTULLO:          Yes.


NATHALIE PEREGRINE:     Tom Dale?


TOM DALE:               Yes.

NATHALIE PEREGRINE:    Thank you. James Gannon for Elsa Saade?

JAMES GANNON:    Yes.

NATHALIE PEREGRINE:    James Gannon for yourself?

JAMES GANNON:    Yes.

NATHALIE PEREGRINE:    Tatiana Tropina.

TATIANA TROPINA:    Yes.

NATHALIE PEREGRINE:    Keith Drazek.

KEITH DRAZEK:    Yes.

NATHALIE PEREGRINE:    John McElwaine.

JOHN MCELWAINE:          Yes.


NATHALIE PEREGRINE:      Sebastien Ducos.


SEBASTIEN DUCOS:         Yes.


NATHALIE PEREGRINE:      Greg DiBiase.


GREG DIBIASE:            Yes.


NATHALIE PEREGRINE:      Juan Manuel Rojas.


JUAN MANUEL ROJAS:       Yes.


NATHALIE PEREGRINE:      Carlton Samuels.


CARLTON SAMUELS:         Yes.

NATHALIE PEREGRINE:     Philippe Fouquart.


PHILIPPE FOUQUART:      Yes.


NATHALIE PEREGRINE:     Thank you very much. For the Contracted Party House, we have seven votes in favor, none against and no abstention. Of the Noncontracted Party House, we have 13 votes in favor, none against, and no abstention. The motion passes with 100% in both the Contracted Party House and Noncontracted Party House.


KEITH DRAZEK:           Okay. Thank you very much, Nathalie. Thanks for conducting the votes for us and thanks all for your votes. We will now move to the opportunity for councilors to submit statements to make comments and to discuss this. I've noted that we have ... I've seen in the chat as I've requested the IPC, the registrars, the registries, the ISPCP would like to make comments or a statement. Cheryl Langdon-Orr as our liaison to the ALAC also would like to make a statement. Marie with the BC, and I will make sure that Rafik has an opportunity at the very end to wrap things up as our GNSO council liaison to the EPDP phase two and phase one group, and the last and final chair of the EPDP phase two.

So I think we'll probably start with an opportunity for those who voted no on resolved clause 1 A and B, but I think we need to alternate a bit from the various groups in terms of the position. So let's start with the IPC and then we'll go to the Registries

Stakeholder Group after that, and then I'll come to the ISPCP and then I'll list out the rest here momentarily. So Flip, if I could hand it over to you for the IPC statement.

FLIP PETILLION:     Thank you, Keith. In view of the timing, please interrupt me. I may limit this to the introduction and I can refer the document that I share with all members during or after this call. But if the details are important and maybe you want to hear them, then I will continue. Please let me know, Keith.

First, the IPC wishes to thank all the members of the EPDP and ICANN staff for the incredible amount of work that has gone into deliberations and the creation of the EPDP phase two final report. As many know, the IPC and BC together submitted a minority statement detailing its reasoning as to why the EPDP phase two final report fails to deliver a system for standardized access that meets the needs of its users.

This statement is not an indictment of the ICANN consensus-driven multi-stakeholder model. To the contrary, the IPC believes that the final report is premature and that with proper scoping, processes, and additional regulatory guidance, that consensus on a real workable standardized access system can be achieved.

Fundamentally, the IPC believes that the EPDP's charter remains unfulfilled. This is problematic for several important reasons. Firstly, more than two years of resource intensive efforts by the ICANN community and ICANN Org are essentially wasted by an

outcome that will not meet the needs of and therefore will not be used by stakeholders.

Secondly, the GNSO council's approval of a PDP outcome that leaves charter requirements unresolved or unfulfilled sets a dangerous and yet entirely avoidable precedent for future ICANN policy development which in turn puts the viability and legitimacy of the ICANN multi-stakeholder model at risk.

The impacts of the upcoming GNSO council vote on the EPDP phase two final report will extend far beyond the subject matter of the EPDP, [undermining] us all and what we could achieve together in this model.

The IPC therefore implores the GNSO council to take due account of their own procedural rules and requirements as documented in the GNSO operating procedures. These procedures, which include the GNSO working group guidelines, the policy development process manual and the expedited GNSO policy development process manual provide clear instructions to the GNSO council to ensure that the responsibility conferred upon it by the ICANN bylaws is carried out properly.

These procedures require that the GNSO council deliberate in particularly considered way in the event that a final report includes recommendations that did not achieve the consensus within the PDP team.

The IPC appreciates that the community feels a crushing fatigue. We feel it too. Nevertheless, we all have a duty to uphold the GNSO operating procedures and the ICANN bylaws. Failure to do

so may invalidate any outcomes of this effort and undermine the GNSO's unique authority to develop policy affecting gTLDs.

The IPC recognizes and applauds the years of hard work and sacrifice that the EPDP members have made to create the current version of the EPDP, but the IPC cannot support the phase two final report as drafted because more work is left to be done to create a robust and efficient system that will be sustainable.

As set forth in the bylaws for Internet Corporation for Assigned Names and Numbers—ICANN—the GNSO council, I quote, "shall be responsible for developing and recommending to the Board substantive policies relating to generic top-level domains and other responsibilities of the GNSO as set forth in these Bylaws." significant aspect of the GNSO Council's responsibilities is to serve as a program manager of the various policy-making and implementation projects.  To this end, the GNSO Council has thoughtfully developed guidelines and processes for the study and initiation of issues reports, the chartering of Policy Development Processes, the creation of working groups and rules for their deliberations, consensus assessment and preparation of PDP reports, including final reports made to the GNSO Council.

The Policy Development Process Manual provides that after collection and review of information, the PDP Team and Staff are responsible for producing an Initial Report, which is to include recommendations for policies, guidelines, best practices or other proposals to answer or address the issues raised in the PDP Charter.

On 19 July 2018, the GNSO Council initiated an Expedited Policy Development Process on the Temporary Specification for gTLD Registration Data and setting forth the following mission and scope in the charter of the EPDP Team. I quote. "This EPDP Team is being chartered to determine if the Temporary Specification for gTLD Registration Data should become an ICANN Consensus Policy, as is or with modifications, while complying with the GDPR and other relevant privacy and data protection law. As part of this determination, the EPDP Team is, at a minimum, expected to consider the following elements of the Temporary Specification and answer the following charter questions. The EPDP Team shall consider what subsidiary recommendations it might make for future work by the GNSO which might be necessary to ensure relevant Consensus Policies, including those related to registration data, are reassessed to become consistent with applicable law."

With respect to phase two, the charter question to be answered were related to, A, purposes for accessing data, B, credentialing, C, terms of access and compliance with terms of use. Notwithstanding GNSO Council's prerogative to remove the concept of accuracy from the EPDP's remit, several other sections of the EPDP Charter which were not removed remain unfulfilled.

The concept of whether contracted parties should be "allowed or required to treat legal and natural persons differently, and what mechanism is needed to ensure reliable determination of status" remains unresolved. In fact, legal advice on the latter was sought and received by the EPDP Team, but never considered. Furthermore, at the direction of the Phase 1 Final Report

Recommendation 17, ICANN put significant time and effort into conducting a study on the feasibility of making this distinction. Yet, the EPDP Team neither considered nor discussed the contents of that study.

Several parts of Question A of the system for standardized access charter questions have not been addressed since the EPDP ventured into developing a hybrid model. The EPDP did not consider what eligibility criteria could ensure access to data as required by Section a3). The EPDP also did not decide which data elements users should have access to as required by Section a5) and a6). Finally, the EPDP did not consider how RDAP could be used to respond to automated queries as required by Section a7).

The EPDP Charter called for it to address "the items included in the Temporary Specification Annex, listed as 'Important Issues for Further Community Action.'" However, the EPDP did not address Sections 2, 4, or 5 in the Annex. These important sections include topics like feasibility of requiring unique contacts to have a uniform anonymized email address, consistent process for continued access on a mandatory basis for all contracted parties, and distinguishing between legal and natural persons to allow for public access to the Registration Data of legal persons, which are not in the remit of the GDPR.

The IPC is not alone in its concerns. Three out of four of the ICANN Advisory Committees submitted minority statements to the EPDP Phase 2 Final Report. Al such minority statements were similar in pointing out concerns and urging the EPDP to continue with its important work to reach consensus.

In addition, the IPC, like others, believes that a centralized unified access model—a UAM—is possible. Although, initially, the Belgian DPA wrote that it is not possible to make a determination based only on the level of detail in ICANN's UAM proposal, the Belgian DPA clarified that policy questions around who gets access to what under what conditions, for how long, as well as other relevant safeguards are, I quote, "extremely important when assessing whether the model which is ultimately developed complies with the requirements of GDPR." End of quote.

To eliminate any remaining doubt, after the EPDP team misinterpreted this letter as decrying the UAM, the Belgian DPA explicitly clarified its position during its February 14, 2020 meeting with ICANN staff. Göran Marby, President and CEO of ICANN, reported from that meeting as follows. I quote. "With respect to the possibility of developing a centralized model that is GDPR-compliant, the representatives said that the letter from the Belgian DPA was intended as encouragement to continue efforts to develop a comprehensive system for access. They said that the letter was not meant to deter the development of a centralized model. Rather, the Belgian DPA's representatives said a centralized model is worth exploring and it seems to be a better, 'common sense' option in terms of security and for data subjects." End of quote.

As a final example, the Bird & Bird memo to the EPDP on automation and centralized decision-making noted that the scenario presented where ICANN makes disclosure decisions centrally, offers least risk of liability to CPs. While rejecting a

centralized/UAM model may have been a policy preference for some parties, it was not a foregone conclusion.

I conclude, the IPC recognizes and applauds the years of hard work and sacrifice that the EPDP members have made to create the current version of the EPDP, but the IPC cannot support the Phase 2 Final Report as drafted because more work is left to be done to create a robust and efficient system that will be sustainable. I thank you, Keith.

KEITH DRAZEK:          Thank you, Flip. Thank you for the comments and we will move on to the next statement, from the Registries Stakeholder Group, but I need to ask everybody to please be concise in the interest of time, and again, there's an opportunity to submit a full statement to the council list and for the archives. But please, if everybody can be concise and respectful of everybody else's time and make sure everybody that wants to speak has the opportunity within the constraints of our timeframe for the meeting today and the agenda. So, thank you. Over to the Registries Stakeholder Group, and then we will move to the ISPCP.

SEBASTIEN DUCOS:       Thank you, Keith. I'll read the statement for the Registries Stakeholder Group. I'm very sorry, I didn't write the statement so I don't know exactly where I could cut, but do cut me and we will file in writing whatever statement we need to continue filing.

So, I'm making this statement on behalf of the Registries Stakeholder Group and our councilors. The Registries

Stakeholder Group would like to thank all the ICANN community members who participated in the EPDP phase two for their countless volunteer hours, the ICANN staff members without whom the final report wouldn't have been possible, and especially Janis Karklins for chairing the working group.

Producing a final report on an issue this complex under accelerated timelines is truly a testament to the ICANN community and the multi-stakeholder model. For decades the ICANN community has struggled with a protracted debate over WHOIS. The adoption of the General Data Protection Regulation (GDPR) forced us to re-evaluate existing policy and practice related to WHOIS and finally recognize, as a community, that privacy is, and always has been, a right of domain name registrants as data subjects.

Data protection law prohibits the indiscriminate publication of a registrant's personal data. Unfettered access to personal data facilitates the unauthorized collection, collation, and sale of a registrant's information. This access often results in the same tangible consumer harms that the ICANN community is dedicated to combating, such as abuse, phishing attacks, and domain hijacking.

While the vast majority of domains are registered in good faith and used responsibly, the Registries Stakeholder Group recognizes that there are circumstances where third parties (such as law enforcement, security researchers and intellectual property holders) have a legitimate interest in accessing non-public registration data. As such we participated in good faith to develop a standardized system for disclosure.

However, a standardized system for disclosure does not mean rolling WHOIS back to the open publication of personal data nor does it mean creating a system that rubber stamps requests for disclosure. In many cases a balancing of the request against the rights of the registrant must be performed to determine if disclosure is appropriate.

In determining who makes the decision to disclose, the CPH was unequivocal that if registries and registrars are liable for disclosure decisions, then they must make that decision. Likewise, ICANN Org considered the diminishment of liability for Contracted Parties an absolute prerequisite for proceeding with centralized decision-making.

The Registries Stakeholder Group would like to thank ICANN org for developing a Unified Access Model" and seeking guidance from Data Protection Authorities on whether liability could be shifted from registries and registrars to ICANN. Through ICANN's outreach efforts and the advice provided by the working group's legal counsel, it is clear that liability cannot be shifted.

The CPH, particularly registrars who have a direct relationship with the data subjects and collect and hold their registration data, are liable for disclosure decisions regardless of who makes that decision. Given that reality, a hybrid model was proposed and accepted as a reasonable path forward. The Hybrid model solves the fragmentation problem, repeatedly cited by requestors, by providing a standard, centralized submission portal to route requests to the appropriate party. Authenticated requestors gain advantages in efficiency, predictability, and monitoring, while

Contracted Parties still retain the ability to make disclosure decisions via a transparent process.

This represents not only a compromise solution with wins for both sides, but also reflects what is appropriate and permitted under data protection law. The Registries Stakeholder Group is committed to responsibly processing registrant data in accordance with applicable law while also providing disclosure to those with a legitimate interest in that data.

We note the concerns raised by other groups, including many representing likely requestors, however we believe the 18 recommendations creating the System for Standardized Access and Disclosure represent a marked improvement over the current process in a manner consistent with data protection law.

While the outcome may not be perfect, it does address the scope and goals of the EPDP Phase II charter to discuss a standardized system for access/disclosure of data that complies with law. Given the above, the Registries Stakeholder Group has voted in favor of phase 2 recommendations. Thank you.

KEITH DRAZEK:         Thank you, Sebastien. We will now move to the ISPCP for their statement. Thank you.

PHILIPPE FOUQUART:   Thank you. I should make it clear that it is not a written statement at this stage, but I do have a mandate to explain the rationale for

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our vote because we thought that would be necessary. It is quote short.

We had a lively debate within the ISPCP around two reservations, the first of which was financial sustainability of the system, and the second was data accuracy. And as you would guess, those are no different from the number of concerns expressed in the minority statements, including those of our CSG colleagues.

On the first one, and at the risk of stating the obvious, the ISPs are fully aware of the need for fiscal prudence on this, and on the second one, it would be indeed quite ludicrous to have put so much effort and money in this to have access to possibly rubbish data. My words. Sorry.

So based on this, we decided nonetheless to vote in favor, because the consensus within the ISPCP was that on one, our first concern, the resolve 1B provided enough safeguards, and that was a reservation that council should [not] exercise on their own, and that should be part of the board report and something to discuss with the board.

On number two, we're confident that the council's undertakings on data accuracy further down the road can improve the current situation, and that was a topic that was much broader than the SSAD.

Finally, to conclude, I think the other elements that I think mattered in our view was the recognition of the time and effort that the team put into it. So while the result may not be as ideal as we wish it were, that was the best we could hope for for a short

consensus-based PDP, even though there was room for improvement. And overall, the ISPs saw in this some improvement to the current situation of WHOIS RDS, and that's all that mattered in our view, hence our vote yes. Thank you.

KEITH DRAZEK:    Thank you very much, Philippe. Thank you for those comments, and we will now move to the BC for their comments. Then that will be followed by the Registrar Stakeholder Group by Cheryl Langdon-Orr and then to Rafik, and we will conclude. Thank you. So over to the BC.

MARIE PATTULLO:    Thank you, Keith. It's a short statement, you'll be happy to hear, and it is written, so I will send it over to Nathalie after this. So, on behalf of the BC.

While extending our sincere thanks to all involved for the work to date, as noted in our joint minority statement with the IPC, the EPDP Phase 2 Final Report fails to deliver a System for Standardized Access that meets the needs of its users. Accordingly, the Business Constituency must dissent. Again as noted in our joint minority statement, the BC is a staunch supporter of the ICANN bottom-up, consensus-driven multi-stakeholder model, as shown by our good faith, active participation in this EPDP.

Phase 2 of the EPDP was chartered to create a standardized system, with twin goals of protecting registrants' personal data and providing users with consistent, timely and predictable access

to registrant data when users have a need to process this data lawfully for their legitimate purposes. Because the Phase 2 Final Report fails to do so, we must vote against that part of the Motion pertaining to the SSAD. We refer Council to the joint minority statement from the BC and IPC for the full rationale. Thank you.

KEITH DRAZEK:     Thank you very much, Marie, and thanks for the brevity, and we'll certainly look to the full written statement. Okay, next is the Registrar Stakeholder Group, then Cheryl, then Rafik. Over to the registrars. If you're speaking, you can't be heard. I see Greg has his line unmuted in the Zoom room, but we still can't hear you.

MICHELE NEYLON:     If he doesn't sort out his audio in the next couple of seconds, I will step in.

KEITH DRAZEK:     Okay. Thanks, Michele. Greg, one more time.

GREG DIBIASE:     Sorry.

KEITH DRAZEK:     Yes, now we can hear you.

GREG DIBIASE:     Sorry, did you hear any of that? Am I starting from the beginning?

KEITH DRAZEK:        You're starting from the beginning. Thanks.

GREG DIBIASE:        Got you. The Registrar Stakeholder Group recognizes that all of the parties working on the EPDP Phase 2 dedicated countless hours and that compromises were made on all sides. We have been clear from the outset that there are certain concessions which Registrars cannot make. We cannot decouple our legal and regulatory risks associated with disclosure decisions from our ability to make those decisions; doing so would effectively delegate our legal obligation to make correct disclosure decisions to ICANN or other third parties while leaving us with the resulting liabilities, a prospect no responsible business can accept.

Furthermore, we cannot agree to any policy obligations that undermine our Registrant customers' rights under data protection laws. These concessions are not ours to give. But from reading the minority statements from other participants in the EPDP Phase 2, it appears that these concessions are necessary to satisfy their expectations of the SSAD. The EPDP Phase 2 team considered to the fullest extent possible the concept of a Unified Access Model with centralized decision-making for data disclosure. However, as noted in the EPDP Phase 2 discussions, Bird & Bird legal guidance, the Strawberry Report, and the response from the Belgian DPA, the ability to divide or reassign legal liability from one party to another was demonstrably unclear in terms of compliance with the GDPR and other relevant data protection regulation.

It is critical that the documents noted above be read in their entirety, as they clearly articulate the complexity of the issues involved and the fact that Registrars are not able to relinquish their legal responsibilities associated with disclosure of data. In recognition of the above, the EPDP Phase 2 and its participating constituencies agreed to redirect its efforts to the Hybrid model, which is what is now reflected in the Phase 2 Final Report.

The EPDP Phase 2 recommendations do not put forward a perfect system for registration data disclosure, but the Registrar Stakeholder Group firmly believes that the recommendations offer a solid starting point and represent a model that Registrars are committed to continue evolving when or if additional authoritative clarity and/or guidance is provided.

The Registrar Stakeholder Group believes that the EPDP Phase 2 has achieved its Charter and mandate to the extent possible. We further believe that the EPDP Phase 2 is a successful example of the multi-stakeholder process, bringing parties together to find an operationally viable solution that respects legal constraints.

While the Registrar Stakeholder Group supports the SSAD as described in the EPDP Phase 2 Final Report, we are concerned that the intended users of the SSAD have definitively objected to it. Therefore, the Registrar Stakeholder Group strongly supports the Motion to request that the GNSO Council and ICANN Board to undertake a cost-benefit analysis of the SSAD recommendations prior to adoption by the Board. Finally, the Registrar Stakeholder Group supports the statement from the Registry Stakeholder Group. Thank you.

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KEITH DRAZEK: Thank you very much, Greg. We will move next to Cheryl Langdon-Orr. Cheryl.

CHERYL LANGDON-ORR: Thank you, Keith. This will also be brief. I am requested to formally bring to the council's attention two points of concern relating to this item of our agenda tonight on behalf of our two, we believe, fully engaged and active representatives of the At-Large Advisory Committee on the EPDP, Alan Greenberg and Hadia Elminiawi.

I will paraphrase it, but it goes as follows. There is a potential for a concern regarding a precedent that may be set and they wanted to draw our attention to that, and it goes as follows. Here's an example. Until now, as with the Red Cross/IOC PDP, council has only approved and passed to the board recommendations that had consensus. In the extreme, using the rule expressed in the motion, the council could send to the board recommendations that had almost no or little support in the PDP working group.

The second point of concern they wish me to raise is that under the proposed consensus designation for recommendations 10 and 18, which had five groups supporting and four opposing, it has been listed as strong support but significant opposition. The GNSO rules and the PDP charter define strong support but support but significant opposition as most of the group supports a recommendation but there are significant numbers of those who do not support it.

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Five out of nine is not most. You cannot use member counts because one group alone has 24% of the members. And in their mind, that implies the PDP rules could be questioned. Keith, I noted that this was on behalf of our representatives, but I am very confident that this would get the wholesale support of the group that meets weekly to establish policy advice and put information into the ALAC process, that's the Consolidated Policy Working Group of At-Large, and therefore, should we take it to At-Large, it would get carriage of support with them as well. Thank you.

KEITH DRAZEK:        Thank you very much, Cheryl. Much appreciated, and we certainly welcome the participation and contributions of the ALAC representatives and the ALAC community in this process. So thank you for that, and we'll look for the full statement on the list.

Now finally, I'm going to hand it over to Rafik, and I just want to take a moment to thank Rafik for his service as our GNSO council liaison and as the vice chair for the EPDP phase one and phase two, and as he was acting as their for the final stages of the phase two work.

I also want to note, before I hand it to Rafik, that as we look to the rest of our agenda for today's meeting, there is going to be further discussion about next steps on the council's chartering and scoping of a couple of items that have been referenced in some of the statements today, and that includes the legal versus natural question as well as the topic of data accuracy. So just wanted to note for anybody that's listening for our attendees that the GNSO council has that on our agenda for further discussion as far as

next steps and that we will talk about that in a short bit after we receive an update on the RPM PDP working group project change request. So Rafik, over to you for the last word, and then we will move on to the rest of our agenda.

RAFIK DAMMAK: Thanks, Keith, and thanks to all for their statement. First, I want to thank all the members of EPDP team, and I think several of them are with us in attendance. I also wanted to thank Janis and the support policy staff for all of the work done in phase two.

I notice that the product is not perfect, but it's the result of a consensus process and a lot of compromise. Although it would have been nice if the outcome of PDP could make everybody happy and give everyone everything they want, unfortunately, it's not possible, it's not how it works.

I want also stress that all groups participated along the process with their representative in the deliberation and the small teams, in all calls, in reviewing the comments and shaping the recommendation with a lot of wordsmithing.

In terms of process, we received the report on the 31st of July and all the minority statements later on. The GNSO council had two meetings to cover the report in addition to this meeting, and that's why I insisted to ask people for comment or question. Procedural points should have been flagged before to be discussed and clarified, so I think that's important to make it and to highlight. Those points should have been discussed and pointed before.

Again—and this is maybe to reiterate what we said along the [inaudible], the GNSO council is not the place to discuss substance as it's the policy manager. We care about the process and procedure.

As Keith just mentioned, the council heard the concerns about the remaining priority 2 items, and you can see on the council agenda that it will be discussed. We have another proposal. And we already started these discussions in June when we outlined the different steps. So nothing in priority 2 items will be left.

I just heard also that the comment about the consensus designation, and I wanted to make the point that any concern should have been done during the consensus call, and that's the place for that. To explain the process—I don't have enough time to do so—how I made the assessment is that it's not a matter of counting the different groups who are supporting or not, it's more about to follow what the charter for the EPDP said about GNSO balance.

So it's not counting. And we can maybe disagree at the end, but that should have been flagged at that time. Now it's not really the one to make this. Okay. I just want to maybe end up with a more positive point. We cannot always be fully satisfied with what we get as outcome, but at least we can be proud after so many difficulties and hard work. So I want again to thank everyone. It was quite a long journey, and that's what we should appreciate at the end. Thanks, everyone.

KEITH DRAZEK: Thank you very much, Rafik. I would just reinforce and echo Rafik's last point there, is a sincere thank you to all members and participants and the support groups behind them from the various stakeholder groups and constituencies and SOs and ACs that participated in this process.

This was a difficult, challenging process in a relatively condensed period of time, especially when you consider the phase one work. And I just want to take this opportunity to thank everybody for the time and the sacrifice that they made in contributing to this effort and outcome, and to note that this is the next step in this process, but there's an awareness and a commitment I think across the community to continue to work to improve the current recommendations if and when additional guidance is received or additional legal clarity is received or circumstances change.

So I think just to wrap up, I think the sense here is that this is a step forward, an improvement, but there's certainly more work to be done and that we as the GNSO council and the next GNSO council look forward to engaging with the board on questions of cost-benefit analysis and any other questions or concerns that the board may have about approving these recommendations and/or moving into a design phase or implementation.

So, thank you for all of your work and all the contributions here today, and we will now move to the next item on our agenda. That will be item five, which is a discussion of the project change request that we received from the co-chairs of the RPM PDP working group, and with that, I'm going to hand it over to John McElwaine who is the GNSO council liaison to the RPM PDP working group to introduce the topic. Thank you.

JOHN MCELWAINE:     Hey Keith. I don't know if we can pull up the project change request. Thanks. And there's also a slide deck that I'm working off right now, but I think it'll be good just to cover real quick. As everybody knows, the RPM working group has been hard at work, and basically in the spring of this year, we had requested, through a project change request, for an extension of the time to produce the final report until mid-October.

The working group was going along at a good clip even during the COVID crisis that occurred during the midst of all that, and had got the final report out for public comment and extended that just briefly because of the pandemic to give people time to get their comments in.

The good news, it got lots of comments. The bad news is the working group got a little bit slowed down by that fact. There was also a few detours that the working group took on two issues where they formed subteams, and these were essentially issues that were coming out of the comments that the working group wanted to dive into.

But as a result, even after going to twice a week phone calls at one and a half hours, it was apparent that we were going to miss our target date. One of the action items that the RPM working group leadership took was to also themselves start a weekly conference call to try to keep everything on pace and to address any issues that were developing during meetings.

So if you switch to the next slide, you'll see it basically summarizes what the previous ninth workplan was and what our proposed—hopefully last—workplan would be. As you can see, it just has some adjustments to the completion of review of public comments, and then our submission of the final report to council, again, we're asking for an approximately 30- or 40-day extension of this period to getting our final report to the council at the end of November.

In terms of any impacts, nothing significant. Really, This is just because there needs to be strong leadership given to the working group to get their work done and not to engage in too many side discussions and also due to the larger than expected number of comments.

I know that at least two out of three of our working group chairs are on the call, and I would encourage them to, if it's okay with Keith, to get on and make any quick statements and answer any questions that councilors might have. So with that, I'll turn it back over to you, Keith.

KEITH DRAZEK:    Thanks very much, John, and thanks for your work as our council liaison to this group. I know you've stepped in in a couple of instances to help chair some of the meetings as well. So thank you for your work. Yeah, I would like to welcome—I think we have Brian and Phil on, but perhaps not Kathy. So we'll move to them here momentarily.

This is an opportunity for us to ask questions of the co-chairs, and essentially, what we're being asked here as Council is to approve the 40-day extension through this project change request. Typically, just so everybody is aware how we handle this, if there's no objection from councilors, the council leadership essentially goes through the process and approves any PCR, just so everybody understands what we're looking at here. So now is your opportunity to ask questions. But Brian, let me hand it over to you. Thank you.

BRIAN BECKHAM:     Thanks, Keith and John. I don't think there's any need to belabor. You have the project change request in front of you. This is a very small timeline request extension. So I think for myself and Phil, mainly, we're here to answer questions if there are any. I would just note, as John did, there's been a lot of hard work going on in the full working group, subteams, small groups, individual caucuses, and we're meeting multiple times per week. So we're truly doing our best and just needed a little extra time cushion.

The thing that I mainly wanted to mention was this is phase one of a two-phase PDP, and I think it would be worth—I don't know what the exact process for this is, but the council or council leadership or however the next phase of this PDP is undertaken, it may be worth taking stock with the co-chairs and staff and council liaison both on a mainly procedural and a few substantive matters. The next phase of this work looks at the UDRP, it's the longest standing consensus policy, it's been around over 20 years. Obviously, due care should be taken to do a policy review of that.

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It also relates to part of the work we've been looking at, a complementary mechanism in phase one.

So again, just to say I strongly believe it would be worth taking stock before any work on phase two chartering or work itself gets undertaken and we are very happy to contribute to that effort. Thanks.

KEITH DRAZEK:    Thanks very much, Brian. Thank you for that, thank you for the offer, and fully agree. I think the council in our consideration and discussion over the last more than a year now, I think have recognized that there's a need to review the charter of the RPM PDP working group, particularly as we move into phase two focused on UDRP and that that is certainly in the plan for a review and updating of the charter to ensure that we're incorporating our PDP 3.0 improvements as well as ensuring that we're setting the phase two work up to succeed in terms of making sure that the scope is clear, concise and appropriate. So we look forward to engaging with the co-chairs and staff, and of course, John as the council liaison in that effort as we look to recharter or rescope the phase two work.

Thank you for that, Brian. Phil, over to you.

PHIL CORWIN:    Thank you. I'll be brief. I hated signing this project change request. We have been doing everything we can to move this RPM to completion as rapidly as possible. The working group's been

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working very hard. I think the 40-day extension is more than enough to wrap up our work and deliver the final report.

As John noted, the co-chairs meet weekly with support staff now to plan things. We're not relitigating issues. If we have to go to two two-hour meetings or whatever we have to do to meet the extended deadline, I'm for that. The process is just very deliberative, and to do it properly requires a great deal of work where we're reviewing things we've already agreed to, but making sure. And I'd second Brian's comments. I'd be glad to consult with the council in any way as you redo the charter for phase two. Our charter was a mess, we had too many questions, duplicative questions, confusing questions.

The last thing I'll say is that the working group members, even where we have disagreements now, are settling them in an amicable fashion. We don't have disruptive or dilatory members. So I'm as confident as one can be that with this project change request granted, we can bring the ship into harbor before the end of November. Thank you very much.

KEITH DRAZEK: Thanks very much, Phil. We'll go to James Gannon next, and then I'll put myself in queue. If anybody else would like to ask any questions, please put your hand up in the queue. Thank you, James.

JAMES GANNON: Thanks, Keith. Yeah, I don't think there's much we can do, really, on this, beyond saying yes, but I just wanted to put it on the record

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that I believe we had this conversation on the last PCR, that it would be the last one, and this really has to be the last one. It can't keep going on and on. And I take what Phil says and appreciate Phil's opinion—we've worked together for a long time—that they're working with a messy charter and had issues with the team and everything else. But once this is approved by council, this time it has to be the end, it really does. And then when the rechartering and everything comes around, there needs to be a lot more controls put into place, I think, to ensure that we don't have things like tenth workplan targets, are just anathema, we should never be seeing something like that. So the next time this comes around, we need to pay a lot more attention to it.

KEITH DRAZEK:      Thanks very much, James. And I'll put myself in queue here and come to Rafik next. So I think as James noted, there have been project change requests recently for this group as well as others. This PDP was chartered over four years ago and this is phase one and we've had multiple changes of the delivery date. And I think from a GNSO council perspective responsible for managing these PDP working groups and the process, is that this really does need to be the last one of these project change requests and extensions, just to reinforce what James has said.

And I think it's important for the council to hear that the co-chairs are committed to working together collaboratively—we've talked about this in the past—and to make sure that the working group members and the working group itself stay on topic, on schedule, don't reopen issues that have been closed or considered addressed, and there just needs to be a coordinated push here at

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the end of this process to make sure that the co-chairs, the working group members and everybody are on the same page. And I think it's important that we hear from the co-chairs that that's everybody's understanding and commitment and that we're assured that we will receive this final report by the targeted deadline if and when we grant this 40-day extension.

So I'll stop there, hand it over to Rafik. Thanks.

RAFIK DAMMAK:    Thanks, Keith, and thanks for the presentation about the PCR. I think there's not so much to add to what was said, that I guess we will accept this PCR even unfortunately that we were told that we won't have a further extension. So I think it's just to be more concrete in terms of measures.

Since this is the final stage for the PDP working toward the final report, there is always that risk that what was closed as topic is reopened, and this is really for the working group leadership to be more firm here with regards to that and to not let deliberation be opened again. So this is the step or the phase to finalize the report. If there is no consensus, just acknowledge it and try to work on the next recommendation. So there is no so much time. You are going to get 40 days, but I think you should finish even before and do everything possible toward that. I don't say it's easy, but I think with the leadership, you can make it.

KEITH DRAZEK:    Thank you, Rafik. I think to put a fine point on this, the RPM PDP co-chairs need to work together and ensure that the timeline is

met in this particular case, and that old issues aren't reopened and that there's a clear path forward to delivering this final report.

At some point, the GNSO council as the process managers for all these PDPs, including this one, will at some point, if we have further problems or delays, have to take some action. Those actions could be empowering our GNSO council liaison to the RPM PDP working group to step in and to help guide this group to a conclusion, and there are other options before the council in terms of how we deal with these project change requests.

I just want to really reinforce the importance of meeting this deadline with this final extension of 40 days. So, thank you. Does anybody have any comments before we move on in our agenda? I think at this point, the sense based on the comments so far is that we as the council and the council leadership will communicate to the RPM co-chairs that we will extend, we will grant the PCR, but this is it. So, any final comments or questions? John, is there anything else that you'd like to say before we move on?

JOHN MCELWAINE:     Keith, I might just want to have Phil and Brian and Kathy maybe in an e-mail later on just to come on quickly and say they do agree and they will do their best effort to make sure that the working group stays on topic and gets their work product delivered on time. I for one hear you loud and clear and I will make sure that I do everything that I can. So I will make that statement right now to the council, but it would be great if Phil and Brian could come on real quickly and also provide that assurance. Thanks.

KEITH DRAZEK:          Thanks, John. Go ahead, Phil. Thanks.

PHIL CORWIN:           Fully agree, John. I hated to sign this extension request. I thought we could g et it done by mid-October. But staff advised us last month that it was just cutting it too close. We've been very firm with the working group. The council should understand, when we began the review of public comments, the rule the co-chairs adopted was that unless the public comments raised new ideas or new facts that have not been previously considered by the working group, we were not reopening any issue, and adopting that stance really cut down on the ability to reopen and relitigate issues. We just had very few come up from community comments, and we're closing out the last of those in a discussion slated for next Tuesday's meeting.

There's really no opportunity through the end now as we complete review of the final report and move to consensus call to reopen anything. We're in the final stage, and as far as this co-chair is concerned, if we need to go to longer meetings or an additional meeting to meet the new target date, I'm completely onboard for that. So I'll stop there, but you have my assurance that I'm working with my co-chairs and John to get this done ASAP. Thank you.

KEITH DRAZEK:          Thank you, Phil. Much appreciated. Brian, over to you, and then we will move on. Thanks.

BRIAN BECKHAM: Thank you, Keith. Yes, John, you have my commitment. I concur with everything that Phil has said. Personally, just to give a little context—and I want to say, I think for all of the chairs, I can say this: we've heard you loud and clear, both in the past and especially on the call here today. I came on this working group about midway through, and to be honest, I found it at times a little bit of a tightrope walk wanting to give air time to members to have discussions about topics where there are deeply held views and not want to cut off debate, and at the same time be mindful of needing to sometimes do that.

I will just say this. We've heard you loud and clear and I think there's been a recognition in the working group, especially over the last months, that the time for open-ended discussions is over and I would say that the working group is very much on the same page with the leadership and we're going to deliver this. Thanks.

KEITH DRAZEK: Thanks very much, Brian and Phil. We'll follow up with Kathy separately—she was unable to join the call today—and ask for a similar acknowledgement and commitment via e-mail that will be forwarded to the council list.

As we move on here, I think one of the key perspectives—from my perspective, one of the important things here is we have a situation with three co-chairs, which is relatively unusual in PDPs. That's obviously something that we will look at as we look to recharter the phase two work on UDRP. But I think in this

particular instance, if in this next couple of months as we look to bringing this phase one report to the council, if the co-chairs are not able to agree in this particular case in this final phase of work, then the GNSO council is going to strongly consider empowering John McElwaine as the liaison to step in and to resolve any conflicts or basically weigh in and say one way or the other, this is the direction we're going.

So I do want to thank you for all of the work and commitment that the co-chairs have put into this effort, but at this point, if it appears that there's challenges or bumps in the road ahead, that John is going to be empowered to step in and resolve any differences or conflicts.

So with that, thank you, Phil and Brian, and John, for everything, and for Kathy as well. Let's go ahead and move on to our next item on our agenda. Thank you.

Okay. Item six, we're going to have a council discussion on the EPDP temporary specification phase two proposed next steps for the pr 2 items. This is something I alluded to earlier and I'm going to hand it over here to Rafik here shortly, but the council has had a small team working together over the last several months to come up with a plan for addressing the priority 2 issues from phase one and phase two that were not on the critical path for the development of the SSAD consensus policy recommendations but were still important. Those included the legal versus natural question, as well as data accuracy.

What we have before us and what Rafik will speak to is the plan for initiating this follow-on work that will be important for the

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ongoing discussion. So Rafik, if I could hand this one over to you. Thank you.

RAFIK DAMMAK:    Thanks, Keith. As you explained, we'll discuss about the next steps for priority 2 items from EPDP phase two. Again, just in terms of kind of the process we went through, we had first that framework document that was shared in June, we had input and then we had the small team using that framework to rework it, and the proposal for the small team was shared in the last GNSO council meeting. Then we decided that we have consensus, support about the approach, but for the council leadership team that took over to work on more the concrete action, what can be done, while not discussing in particular about the timing.

So just maybe to kind of give a quick briefing or highlights about what's proposed as approach, while I ask everyone to check the document that you can find in the agenda, is we will have two tracks, one to cover the two topics of legal versus natural person and the feasibility of e-mail contacts to have uniform anonymized e-mail address. The second track is about accuracy.

So if we check the document, we kind of used a more tabular format, make it more easy to read and also to emphasize the different steps. So in the instruction, that's basically what we had from the beginning and a previous proposal, but what we tried to do is more to outline what can be immediate actions, and then the subsequent steps. And the idea here is just we can start some steps that can be initiated by the GNSO council before that we initiate or kick off the two tracks.

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So for the first track, as immediate actions, first communicate to the groups that have appointed members to the EPDP team just to inform them that we will reconvene the EPDP team again, and so we want them to confirm their members' availability so they can reappoint or appoint new members.

And I think the most important here—and I want to stress it—is we really want, or ask, different groups to develop proposal to address these topics, factoring deliberation to date, and here is that to kickstart the deliberation quickly when the EPDP team reconvenes. So it's not just about rehashing what was discussed before, but really to work more concrete proposal to move forward.

The other immediate action for the council is to discuss about or consider the leadership question. So for example, should council liaisons serve as interim chair, since the time frame proposed here of three months is limited?

And so if not, should informal call for expressions of interest be conducted amongst the EPDP members, or should we have a formal call for expressions of interest for external chair to be conducted? So this is one point for the council to discuss soon and to make determination.

After that, we have subsequent steps. After the council completes consideration of the EPDP final report, it should confirm the goal ahead for the EPDP to reconvene by confirming or selecting the leadership, and when the EPDP team is recommending to commerce deliberation, they will have three months to work and we expect the chair of the EPDP team and the GNSO council

liaison to report back to the GNSO council about the status of the deliberation, and based on that report, the GNSO council will decide our next steps, so the most important is to have an idea about the progress made and the expected likelihood of consensus recommendation.

So GNSO council at that time can decide either to [inaudible] recommendation or terminate the EPDP team if it's clear there is no progress being made or the consensus is unlikely. So this is for the track two to cover those two topics.

For the second track regarding the accuracy and WHOIS accuracy reporting system, here, what is proposed as approach is to form a scoping team consisting of volunteers from GNSO stakeholder groups, constituency and as well as interested advisory committees.

So I'm not going into detail what is kind of instruction for the scoping team, but they are tasked to facilitate community understanding of the issue, assist in scoping and defining the issue, gather support for the request of an issue report and/or serve as a means to gather additional data and/or information before the request for an issue report is submitted. So this is just quoting from the proposal.

Here, in the instructions we're giving them for the scoping phase that they should consider two points and also the several input they should use, like the legal advice from Bird & Bird or the public comment received for the phase two addendum, and also the communication between the council and the ICANN CEO.

Again, as we split in two type or category of action, immediate actions, the council will communicate with GNSO stakeholder group constituency as well as ICANN advisory committees that have expressed interest on the topic to tell them or inform them that we will launch the scoping team, and requesting them to start thinking about the members they would like to join the effort once the scoping team starts.

And I think the most important in terms of substance is they start compiling relevant information and suggestions that will help for the discussion. Again, here, we are really expecting all the groups who expressed interest to help in terms of proposal and input, so to help to work on the scoping here.

Also, to request ICANN Org to develop briefing document that outlines existing accuracy requirement and programs and the impact that GDPR has had on implementing, enforcing this requirement. So we'll also request this kind of document from ICANN Org. And with this, the GNSO council will need to consider in the context of council action decision radar the appropriate starting time. And this is just because, as you know, the GNSO council is trying to manage the bandwidth, the resources in the pipeline, so we will make the decision regarding the starting time factoring all the other projects, and so it's important we free the bandwidth so it will make it easier to start a new effort.

So, as subsequent steps following the confirmation of the decision by the GNSO council with this previous point, then we will launch the call for volunteers to form the scoping team. This will follow what we had as previous scoping team, like for IDN or for ... I

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forget here, there was another review team related to the transfer policy review.

So it will follow the same model, and they will identify the lead amongst the members. Then the council determines the deadline by which the scoping team is expected to deliver its [finding] and recommendation. So we can expect from this scoping team for example to come up with request for an issue report and so on. But the whole purpose is really to help in terms of scoping to clarify what we are trying to answer as a question and what we are trying to cover in terms of PDPs.

So this is quickly the proposal, and I can answer the questions and clarify if there is anything that requires more details. Thanks all.

KEITH DRAZEK:     Thank you very much, Rafik. Thanks to you and to the small team that has worked over the last several months on developing this proposed plan. I think we've had conversations about this in previous GNSO council calls. The proposed plan has been available and on the list now for quite some time, and I think the key here is that the small group has made this proposal and there's been no objection to it. So I think essentially, what we're suggesting here is that we move forward with this plan that the scoping efforts begin and that on our next council call, we'll likely have something on our consent agenda, sort of acknowledging this plan and saying this is the path forward on these particular issues. So unless there's any questions or objections, that's the plan. And again, thanks to the small team for the work that they've

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put into developing this proposal. I think we're on track for initiation of these additional two Work Tracks, broadly legal versus natural and data accuracy being the two, and I think the scoping effort will be very important to make sure that we're all on the same page as to what the goals of these particular Work Tracks are and to make sure that they are informed by all the relevant documents and data and various moving parts. Marie, go ahead.

MARIE PATTULLO:     Thanks, Keith. I'm very grateful to Rafik for not only his overview but also sending around the document. As you know, I sent some comments to the list yesterday. I know everyone's been very busy and might not have had time to read them. But basically, really pleased that we do have support for this approach. It's a great idea. In particular, with the accuracy, I'm really pleased that we have looked to having the scoping team bring in the different SGs and Cs and the interested ACs, because this is cross-community and it really is important.

And of course, we all know that we want this to happen as soon as possible. At the last council, we discussed the two separate timelines. And I know there was a lot of cross-table support on the accuracy thing for getting the scoping group as soon as possible up and running. I can speak for the BC that we've already got some volunteers who'd be interested in that. I understand from other SGs and Cs that they also have as well.

So all of that to circle back and say, apart from the comments that I sent you guys yesterday, can we please get this started much sooner rather than much later? I really do appreciate the timeline

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constraints, but on both of these issues, they are very important, not just to the GNSO but cross-community. So I would like to see them started as soon as we feasibly can. Thank you.

KEITH DRAZEK: Thanks, Maire. And noting that that was one of the areas of question or concern in terms of differences of opinion. The timing question essentially was one where there were different views, shall we say, on council during our most recent conversations. But we recognize that both of these topics are important to different parts of the community and that there's a need to factor that into our prioritization work. And as Rafik noted earlier, the bandwidth questions, both from community and staff as well. But I think this plan [inaudible] project and the indication that we're going to have something in our consent agenda during the October meeting, moving this forward I think is an indication that we're taking it seriously. Rafik, last word on this, and then we need to move on.

RAFIK DAMMAK: Thanks, Keith, and thanks, Marie. Just to say I went through quickly your comments. I think we can clarify those quickly. But what I can say right now is that with the immediate action, we can start that preliminary work and let also the different groups start on their proposal and organizing themselves. So with the proposed next steps, we're already kinds starting and kicking off, but what the GNSO council needs to do is to kind of reflect those next steps in our ADR and so we can then start approving them following the sequence or the order. So again, since I think we have some of the representatives from the different ACs or also the stakeholder

groups and constituencies, they can expect also the communication regarding the next steps.

So I think we are on the right path, and that's why it's important to gather support, approve, and move on. Thanks.

KEITH DRAZEK:       Thank you, Rafik, and thanks to all for the conversation on this one. Let's move on. We now have item seven, which is a council discussion on the implementation concerns for EPDP phase one recommendation 7 as it relates to the thick WHOIS transition policy. I'm going to hand this one over to Pam and Rafik to help manage the process. As I've noted previously, I've recused myself on this particular topic previously in months past, so I'm going to continue that trend. Pam and Rafik, I'll hand it over to you. Thank you.

PAM LITTLE:       Thank you, Keith. May I suggest maybe we just ask Sebastien to give us a very brief overview. I know he sent the status report to the council list about ten days ago. Maybe if I could please ask Sebastien to give us a very brief overview, then we can open for discussion.

SEBASTIEN DUCOS:       Thank you, Pam. Indeed, I sent the mailing list a report ten days ago on the final deadline before this meeting.

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Just for everybody's background, I'm sure that you're well aware of the question, but just to recap, recommendation 7 of the EPDP phase one regarded the transfer of data from registrars to registries. The notion being that there is a minimal set of data containing essentially data about the domain itself, the expiry date, the registrar, that sort of stuff, and additional data regarding contact details of the registrar and the admin contact attached.

Recommendation 7 read, "The EPDP team recommends that the specifically identified data elements—the ones that I just named—and the transmission of registration data from registrars to registries as illustrated in the aggregate data element workbook must be transferred from registrars to registries—and here, bold— provided an appropriate legal basis exists and data processing agreement is in place." And then follows by the list of data.

So the key sentence of the recommendation that creates friction within the IRT is this "provided legal basis exists and data processing agreement is in place." Essentially, we have within the IRT two, three groups. One of them generally represented by members of the CPH—and here I note, obviously an IRT, just like an EPDP, is a group of people that represent themselves in principle, not groups within the community, but in this IRT, I guess because of the composition or the way the EPDP was structured, with groups if not siloes, we find this framework also within the EPDP.

So those members that represent the CPH tend to have the same idea, and that idea is that essentially, the existence of an appropriate legal basis is not set for everybody all the time and that this wording should absolutely be transcribed into policy for

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each TLD individually on a case-by-case basis to be reviewed and assessed for that legal basis, and then be decided if the data transfer is required or not.

A second party here is generally represented by the IPC and the BC and is of the view that legal basis exists in all cases for all TLDs. Part of it is underpinned by the thick WHOIS transition policy, part of it is underpinned by the Bird & Bird report on that policy. And whilst they don't have any formal objections to the wording, they want to make sure that everybody understands that legal bases exist in all cases, that the data processing agreement that is currently being negotiated between CPH and ICANN Org should reflect that, and provided that these two notions are agreed, legal basis in all cases and the proper data processing agreement, they're happy to work with this text.

The third party, which is the ICANN part of the working group, is of the view that indeed, the legal basis exists in all cases, that it is also basically underpinned by Bird & Bird and the thick WHOIS transition policy, and [that—because legal basis is the] full sentence of "provided an appropriate legal basis exists and data processing agreement is in place" [is going to have to be removed.] If it exists, let's not have that discussion, remove it.

So this is basically where we started in June. This is precisely where we still land now in September. Very little movement has been made. For all intents and purposes, people have stayed very kept into their positions.

Now, with a bit of pressure, with some time constraint, with my felt obligation to report to the council on our activities after three

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months of verbally reporting, I wanted to make sure that I wanted to report in writing, we did come—and I tried to reflect that into the bottom of my report—we did, as a group, come with two questions that we wanted to put to council for discussion.

The two questions are as follows. If the council believes there's no conflict between recommendation 7 and the thick WHOIS transition policy, then the two parties in opposition seem to have a different point of view. So if the council believes that there is no conflict between recommendation 7 and the thick WHOIS policy, the CPH will say, well then leave that sentence and just go with the recommendation because the recommendation is indeed properly written.

The opposite side seems to understand exactly the opposite. So if the council believes that there's no conflict between the recommendation 7 and Thick WHOIS, we need the council to explain then to the IRT that there is no conflict and the consequences the council sees of that absence of conflict.

If the council in turn believes that there's a conflict between recommendation 7 and thick WHOIS, then both parties are asking for the council to provide direction as to the perceived conflict and how to resolve it. I tried to make this as short as possible. Rafik and Pam, if I've missed anything essential, please do intervene. But otherwise, the word is to the council.

PAM LITTLE:          Thank you, Sebastien, for that update. Appreciate all your hard work over the last three months or so, trying to help the council

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understand better the nature of the so-called impasse and providing—see how we can better help the IRT to decide how to proceed.

I have Michele in the queue, so Michelle, over to you.

MICHELE NEYLON:    Thanks, Pam. Thanks, Sebastien, for the update. I'm finding this rather bizarre. Somebody from the IPC/BECAUSE is going to have to explain to me, using very short sentences and words with a limited number of syllables why they are opposing language in a recommendation that simply states that there should be a legal basis.

To state that a policy provides legal basis is farcical, because it doesn't, a policy is just a policy. I don't understand why this is an issue. It makes no sense to me whatsoever.

The legal basis language, which is in there, makes perfect sense to me, is completely logical, and I don't understand why anybody would oppose it. That is as if to say that they are opposing the legality. Which I would love to hear somebody explain to me how you can oppose legality and keep a straight face.

PAM LITTLE:    Thank you, Michele.

SEBASTIEN DUCOS:    May I answer this?

PAM LITTLE:    Sure. Go ahead, Sebastien.

SEBASTIEN DUCOS:    And IPC, BC, please appreciate that I'm not speaking in your name but only representing what I heard here, so please correct me if I'm saying this wrong. Michele, I don't think that we can characterize them as opposing the wording requiring legal basis. And as I mentioned in my report and verbally, the wording is not the problem, they're happy to live with the wording if that makes everybody happy. ICANN Org was wanting to remove that wording, not the IPC/BC.

What they would like, though, is for that wording not to be left at an open gate to further litigation and interpretation and so would want to have set clear the fact that in their view, the legal basis exists in all cases. In their view, the data processing agreement should reflect that. That's all I meant. The wording itself, let's not say that the IPC/BC are proposing that we should draft policy that is illegal. That is not their point of view. Thank you.

PAM LITTLE:    Thank you. Marie, you're next.

MARIE PATTULLO:    Thanks, Pam. I am not an expert in this, but I do have colleagues who are. So Michele, I will try to use short words, as requested. And following on from what Sebastien just said—I do hope that

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made sense—the issue, as Sebastien said, but adding on to it, is that if we take the line—as the contracted parties seem to be taking—that there is no legal basis, then including the wording "provided a legal basis exists" will have a direct impact on the thick WHOIS consensus policy, and the board has been really clear that the IRT must avoid having any kind of impact on this consensus policy.

So we don't oppose it, per se. We're simply pointing out that there would be an impact on the thick WHOIS policy which the board has specifically told us not to do. So as Sebastien said, it's all about who gets to decide whether the data transfer has a legal basis. I hope that that makes sense, and I hope I used small enough words. Thanks.

PAM LITTLE:     Thank you. Sebastien, you're next, and I'm going to have to draw a line here and propose some next steps because we really are pressed for time. Over to you, Sebastien.

SEBASTIEN DUCOS:     Thank you. Just for fairness, responding to Marie, I don't think that the CPH is saying that there is no legal basis in any case. They are saying that there might be cases where the legal basis is not established. So that's a first thing.

The second point—I might have to [inaudible]. It escaped me. So the second point you made is—it's gone, sorry. CPH did not say that there's no legal basis in any case. They would like for it to be

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acknowledged that there's not always legal basis. That's all I want to say. Thank you.

PAM LITTLE:     Thank you, Sebastien. Councilors and colleagues, you will recall when the board wrote to the council back in March and then we wrote back in May, in our letter we asked Sebastien to see if he could help resolve this matter within the IRT. As you heard, Sebastien said when he started this with the parties [are stood] and now things seem to still be exactly where it was. So the disagreement appears to be persisting.

At that time, you will recall, the council really was very much relying on the existing GNSO procedures or guidelines such as the Implementation Review Team principles and guidelines and the consensus policy implementation framework. Those documents provide some guidance as to how to resolve this kind of uncertainty or disagreement. And given the way things stand at the moment, I'm going to propose that the small drafting team that prepared the letter responding to the board back in May be reconvened so we can work together to provide a response for Sebastien to take back to the IRT, hopefully provide some guidance to the IRT. That's one track.

The second track may be to expedite the review of thick WHOIS transition policy as envisaged by recommendation 27 of the EPDP phase one final report. So Marie, I believe you and also John from IPC were in the small drafting team with myself and Rafik. I don't recall whether there were other counselors in that group. So if you are willing, certainly, we value your input to work with me and

Rafik on this drafting a response back to the IRT. Does that sound an acceptable path forward? Great, thanks, Marie. And Philippe as well. Thanks. Okay, great.

If other councilors are interested, please let us know, send an e-mail to the mailing list. With that, I'll hand it back to Keith. Thank you, Keith.

KEITH DRAZEK:    Thank you very much, Pam, and thanks to everybody who contributed to the conversation. Sebastien, thank you very much for all your work engaging with the IRT and with ICANN Org on this topic. And just to summarize, I think what Pam has suggested makes sense in terms of developing a formal response to the IRT through Sebastien, but also looking to provide a response to the ICANN board because we have sort of an unfinished exchange of letters or communication about this particular topic? But I think the initiation of the follow-on policy work identified in recommendation 7 and the ICANN Org's wave one report on this topic is important and timely. So, thanks very much.

Moving on then, we have item eight on our council discussion, which is a Q&A with our GNSO chair candidate, Philippe Fouquart. I'm just going to open this up and to say, obviously, we have the GNSO council chair election coming up that will take place during our October meeting, and actually, it'll be during the October meeting after the new council has been seated, and we have one candidate forwarded from the Noncontracted Party House, Philippe Fouquart of the ISPCP. Philippe has submitted his expression of interest and candidate statement, so that's

available. It's linked in the agenda on the screen. If you haven't had a chance to see it yet, I encourage you to do so.

I just want to open this up, and Phillipe, I'm going to hand this over to you here shortly if you'd like to make an opening statement, and then we'll open it up to Q&A. Thank you very much for your willingness to stand and to serve, and we look forward to moving this forward and bringing you into the chair role.

And I can speak a little bit in terms of process as far as the vote is concerned when we get to 8.3 and next steps. So Philippe, over to you.

PHILIPPE FOUQUART:   Thank you, Keith. So it's been a long night for everyone, I guess, already, so I'll leave it to you, Keith, to cut in if this is enough for the day and if you want to reconvene a follow-up or something.

Yes, as you said, Keith, as most of you know, I'll be standing for the GNSO council chair as the bylaws say at the next AGM. I'm indeed honored by the nomination from the NCPH. Obviously, this is a bit odd, to do this remotely, and although I'm very enthusiastic with the discussions I've had so far with some of you, custom would have it that meeting up would be more proper and more efficient to discuss priorities. But I suppose we have to make do with this.

So this is a Q&A for councilors. I think most of you know me. And for the others, I'll just refer to my statement. So for maybe if there are observers, my job title is senior expert in naming, numbering and addressing. I'm with Orange, that's a French-based operator.

Worked on naming and DNS, on policy and engineering for 18 years. I think for the rest of it, I'll just refer to the statement. I'll stop here and directly go to Q&A. Keith, do you want to handle that, or [how can we] proceed?

KEITH DRAZEK:          Yes. Thanks, Philippe. I'll handle the queue if there are any questions or comments. Philippe, thank you very much for your statement. Indeed, typically, we have these conversations and these questions sessions in person just prior to the formal council meetings at the AGM, but we'll make the best of it here virtually under the current circumstances. So, thank you. I see a hand from Sebastien. Please go ahead.

SEBASTIEN DUCOS:      Thank you. This is a bit of a weighted question. I joined the IRT that we just spoke about a year ago. I'm discovering this process, I've been discovering it for the last year. In your view and in the perspective of all the work that's been done with the PDP 3.0, how do you see how we could render this IRT process also more efficient? And in particular, in the case of EPDPs where a lot of those questions are handled maybe with more speed or faster than could be, or where discussions need to be closed at some point because they're going in circles, how can we avoid making this IRT work not yet again another forum to relitigate, to reopen discussions and etc.? Thank you.

PHILIPPE FOUQUART: Thank you, Sebastien. Obviously, I won't address the recommendation 7 and thick WHOIS question that you just raised earlier. It would be sort of a more general issue of the relationship between the IRTs and the PDPs. I think as you said, that's nothing new. I think this is something that we've had to deal with for a long time now. But indeed, the EPDP has put more stress onto it. And maybe that's something that was overlooked in the development of the EPDP. And by this, I mean the process, not phase one and phase two.

When you define something, a process—and I think I used the word deadline-driven in my statement—it's meant to lead to a sort of recursive process where the implementation would lead to a revision of the policy itself. And it's certainly no failure from the EPDP phases to have left stones unturned as the one that we've just discussed and the fact that there was some language that could be interpreted differently by different parties or deemed irrelevant in EPDP.

So it's a byproduct of the EPDP, really, and I think the word that was used very often is uncharted territory. And I think that's just one of the consequences. When you draw things by deadline, and as I generally say, when you want to put one liter into a bottle of one liter, if you want to do a liter, it's no problem, but if you want to put two liters, it's very easy to just increase the pressure. And ether it leaks or it bursts. And that's what we've got here.

So that's something that we have to make do with. Scrum management is nothing new, and that virtuous circle I was referring to earlier is something that we need to develop and certainly further revise PDP 3.0 in the spirit of possibly making

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sure that that virtuous circle is established once the PDP is indeed approved, or even make sure that the PDP itself is more tightly chartered and not open ended, and not rely on the PDP team to make sure that they do not leave those stones unturned.

So I appreciate that's not a very precise answer to your how question, but I think we have to recognize that the new process has led to new issues in terms of having those IRTs and PDPs more tightly related, and I think we will need with the new council to have a look at that. I think that's one of the things that we need to consider at the next strategic planning session, hopefully sometime later this year, or early next year. We'll see. But happy to have a follow-up, but I think that that's something that is pretty much inevitable given the process that we have.

KEITH DRAZEK:          Thank you, Philippe. Rafik, go ahead.

RAFIK DAMMAK:          Thanks, Keith, and thanks to Philippe for responding to this Q&A and doing his statement. Philippe, unfortunately, I'm not going to vote for you because I'm leaving the council in October, but I just wanted here to ask a question. I'm observing that several of us will leave the council in October, so many new will join then and we'll have new council. So, personally, I'm always wondering about the continuation. I believe that we are always continuing what was done before to leave something for those who are going to succeed us and to continue the work.

Why I mention this is I just want to know how you will ensure that continuation, and in particular, since there are several activities that we started already, kind of to avoid maybe reinventing the wheel and to get the new councilor involved, and just to focus in how to make more progress than just trying to revisit what was discussed before, etc.

So for example, now that the [EPDP et al] worked on this for two years between coming with recommendation and then their implementation, and so we expect review in future, so I'm just wondering—and it's not just about 3.0 but in general, how you think that you will ensure, as your role as chair but also taking into account you will have a team with the vice chair, to continue the work and how to get all the new councilors onboard. So [you just have one year.] So I'm just wondering what you're thinking here and what you can see or can do for that. Sorry for the long question.

PHILIPPE FOUQUART:    Thank you, Rafik. I think, yes, that's certainly a challenge. And I would add to that, and that's a challenge that we generally had within council, but you're right, the sort of turnover of councilors is such that this year, that's going to be a challenge. I would add something to what you've just said, and I would agree with your characterization, is the crisis that we're facing. At the moment, I think the whole community is facing the pressure of not having those face-to-face meetings, and sometimes—I think I mentioned that in the statement—the inclination of working on [inaudible] issues. And I think that's very much appreciated.

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So those are new challenges. And so to your question, I think there are a couple of things that we can try. On the empowerment of the new councilors, I would like to have small topic teams within council. It's something that we didn't try, for good reasons, because we had opportunities to meet up for example and it was probably easier for people to catch up with the history of council. But working remotely, I think we will have to do that up front and not wait until the next council call for instance, or not rely on council calls for that matter for people to catch up with the results and be in a position to inform their constituencies and vote in the most informed manner.

So delegation is one answer to your question, I think. And I would hope also to rely on you, if I may—you meaning those of you who are on very specific topics like PDP 3.0 or the EPDP phases for instance that have the history to help those—and I think we can figure out a way to do this, either through the SPS or even outside of the SPS, but make sure that the people like you, Rafik, who have that background, are associated with council to some extent so that the baton is passed between those that leave and those that come on council. Thanks.

KEITH DRAZEK:          Thank you, Philippe, and thanks, Rafik, of the question, and Sebastien for the previous question. Would anybody else like to ask any questions, or shall we move on? All right, I don't see any additional hands, so thank you, and Philippe, thank you again for engaging here today as well as, as I said earlier, being willing to stand and serve in this important role. Very much appreciated, and looking forward to supporting you even as Rafik noted some

of us will be leaving council, we'll still be available as resources to you, and to the council and the new leadership team as needed.

So let me just move to 8.3 here briefly on next steps. I want to note that we're in a unique situation here. Typically, for those of you who have been involved n council for a while and have been through chair election processes in the past, it's a little bit of a complicated process where we have multiple rounds, potentially, particularly when there's a contested election, and that there's a requirement or an expectation of sort of anonymous voting during those rounds.

We're in a different situation here on a couple of fronts. One is that we have an uncontested election here, or appointment, and we're also remote. We're also in a virtual setting as we go forward and do this voting process. Typically, and historically, we would be issued paper ballots that we would then mark. And of course, we have requirements for certain percentages of each house when we go through the voting.

So we're in a unique situation here and we have some options before us. I think in this particular case, we could, under the operating procedures, streamline that process and go for a simple vote of acclimation or a roll call vote to essentially approve Philippe as the next chair.

We could also go through a more complex e-mail voting system that would maintain the anonymity but also allow for the tracking of the various votes from different houses. There's obviously some potential technical issues with e-mail voting that could cause problems. But I think what I'm signaling here is we have some

options before us. Council leadership has discussed this with staff, and what we will likely do is put forward a proposal to you, to the council and the council list as far as next steps in terms of process of how we will conduct the vote.

From my personal perspective, I think what we have here is a unique opportunity with one candidate, uniquely qualified, and a virtual setting where perhaps a vote by acclamation or simple roll call vote to confirm Philippe would probably work just fine. But it's a unique scenario and we'll put a more formal proposal out to you through the council list shortly, and well in advance of the October meeting.

And of course, we need to note that the vote will take place once the new council is seated, so it's not something that we can conduct well ahead of time. It has to be done by the new council.

With that, Mary, if I could turn to you and see if you have any additional comments or thoughts or if you need to clarify anything that I've said, feel free to do so. Thank you.

MARY WONG: Thank you, Keith. Hi everybody. Actually, nothing to clarify. From the staff perspective, I think you laid it out very clearly, as you said, staff, primarily Nathalie will be following up to describe in more detail what the steps are, as well as what the options are. So all I'll say for now is that we want to preserve the integrity of the voting process for the GNSO chair for obvious reasons, and bringing it to a virtual environment, as Keith said, has its challenges. But we also want to preserve as much as possible the

same amount of transparency, integrity, and if need be, anonymity while making sure that the new council understands all the options that are available to it. So look out for a follow-up message from the leadership team and staff. Thank you, Keith.

KEITH DRAZEK:     Thanks very much, Mary. Much appreciated. If there's no question or comment on that at this point, let's move on to AOB, and that is 9.1, preparation for our bilateral meetings for ICANN 69. That's ICANN board, ccNSO, GAC and SSAC, and then a discussion on the strategic planning session.

Just to note that we have a meeting with the GAC scheduled for the week of 1st October, which is before ICANN 69 kicks off. And then during ICANN 69, we have meetings with SSAC and board on the 13th of October and then ccNSO on the 20th of October. So we have some work to do to prepare for those meetings and to develop any questions or issues or talking points that we need to pull together. So I suggest that we pull together a small team of interested folks who would like to contribute to those discussions. We'll send an e-mail to the list asking for volunteers to contribute to that effort. If anybody has specific topics that they'd like to raise with any of these groups in our bilateral sessions, please flag them. And of course, with the one with the GAC coming up fairly quickly, that's one that we want to focus on.

Any comments or questions on this? Nathalie, is there anything that you'd like to say regarding prep for ICANN 69?

NATHALIE PEREGRINE: Thank you for that, Keith. No, we'll be sending out an e-mail outlining all the council-related sessions for the meeting. However, a reminder that because of the incidents that happened during the last virtual meeting, registration to the ICANN meeting website is required to access the schedule and therefore to access the Zoom access information per session. The Zoom information will be posted 24 hours beforehand, but there will be no information circulated via mailing list, it'll only be via the website. So please try now to register to the website so that if you run into any issues, we can iron them out before the meeting kicks off. Thank you.

KEITH DRAZEK: Thank you very much, Nathalie, and thanks for that reminder. And again, just to underscore, make sure you register for ICANN 69 through the ICANN website. If you don't, you won't be able to access the schedule and/or the Zoom links. So thank you, Nathalie.

And then as the last item on our agenda, going to hand it over to Pam for a brief discussion on the strategic planning session of the next council. Thank you.

PAM LITTLE: Thank you, Keith. I'll be very brief. Usually, we have the council strategic planning session in January, but given this is going to be a virtual setting, it's probably not going to be January. We are hoping we could get it done this side of Christmas or holiday break.

A survey has been sent out to incoming councilors and those councilors who are staying on for the 2020 year on to seek your input as to what time slots work for you and what topics you would like to be included in the sessions and what role you might be able to play, including suggestions of virtual team building events or activities we can do over Zoom. So please complete that survey by I believe it's the 27th which is Saturday, Sunday or Monday. Then we can take it from there.

And because I'm staying on, I'm going to lead this planning effort with our chair nominee, Philippe. And we will also welcome other incoming councilors or those who are staying on to join the small planning team as well. That's all I have. Thank you, Keith.

KEITH DRAZEK: Thank you very much, Pam, and thanks to you and to Philippe and others who contribute to this, and of course, our staff colleagues. There's a lot of work that goes into planning the SPSes, the strategic planning sessions, and this one will be challenging because of the virtual nature. So thanks in advance for the work that you're putting into this.

With that, that brings us to the end of our meeting. I'd like just to ask if there's Any Other Business, any other comments. Did I miss anything? And if not, we will move to conclude. And Nathalie and staff, if there's anything that you'd like to say, you're more than welcome to, but I'm not seeing any hands, and we used the 30 minutes that we added. So, thank you all very much for joining a long call, but I think an important one. So, with that, we'll go ahead and conclude the meeting and stop the recording. Thank you.

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**[END OF TRANSCRIPTION]**