ICANN Transcription

Council Committee for Overseeing and Implementing Continuous Improvement

Wednesday, 22 September 2021 at 13:00 UTC

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JULIE BISLAND: Good morning, good afternoon, good evening, everyone. Welcome to the Council Committee for Overseeing and Implementing Continuous Improvement call taking place on Wednesday the 22nd of September 2021.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. And we have no apologies for today's call. Statements of interest must be kept up to date. If anyone has any updates to share, please raise your hand or speak up now. Seeing none, if you do need assistance updating your statements of interest, please e-mail the GNSO secretariat.

All documentation and information can be found on the Wiki space. Recordings will be posted on the public Wiki space shortly after the end of the call. Please remember to state your name before speaking. As a reminder, those who take part in the ICANN

multi-stakeholder process are to comply with the expected standards of behavior. Thank you, and over to our chair, Olga Cavalli. Please begin.

OLGA CAVALLI: Thank you very much, Julie. Good morning, good afternoon, good evening. Thank you for joining in this new meeting of our CCOICI committee to review about the taskforce assignments.

I don't know if you were able to review a new document that was shared by staff in the email. I don't know, Marika, if you want to review the project plan again or would just go into the document with the inputs and comments that have been added.

MARIKA KONINGS: Thanks, Olga. I've posted the link as well in the chat. The document was shared by e-mail in preparation for the last meeting, and we did a walkthrough of the project plan and the proposed milestones as well as timing. I have not seen any comments or feedback from anyone, so I don't know if that means that people are comfortable with what we have there. As said, this is a prediction of the work ahead and how to approach it. Of course, the group can always adjust as needed. This is information that will be shared with the Council so that they are aware of the plans that the group has and the timeline against which it will be working. So it is a public document but as said, it's not set in stone. We've made our best guess at this point based on the information we have. But of course, as we further progress on our work, updates may be necessary.

OLGA CAVALLI: Thank you very much. Could we perhaps review it very quickly and see the most important milestones and dates? So we have some members of the committee that were not present in the previous call.

MARIKA KONINGS: Sure.

OLGA CAVALLI: Thank you for that.

MARIKA KONINGS: I have to warn people because it's fairly small on the screen. So if you want to follow along, you may—

OLGA CAVALLI: But you'll help us.

MARIKA KONINGS: Exactly. But otherwise, on the link, you can download your own copy and zoom as you want. So you'll see it here up on the screen. Again, some of the items in green, we've already completed kind of the preparatory work. So the main focus for the group is really to look at here which is the part of the assignment that we're currently working on, which is developing and

completing the taskforce assignment form for sending to the GNSO Council.

And then here, this second part basically focuses on the assignment that will be for the Council committee after it has completed its work on the taskforce assignment form in relation to the working group self-assessment. So again, we've made some estimations here about the time it may take and some of the steps the group will likely need to take to kind of work through that assignment. But as said, of course, there's some flexibility in here and the group can adjust that as needed when it starts on that assignment.

Just for a reference point, we included here as well kind of a very high-level timeline for the taskforce when it's formed, but of course, that taskforce will be responsible for setting its own workplan and timeline. This is just a reference to make sure that it's understood that this is part of the kind of overall oversight that the committee will have in reviewing that work, and it'll of course be linked to what the Council committee will be doing and eventually, of course, it'll come through the Council committee to the GNSO Council.

And then at the end, we've already added some steps kind of foreseeing the completion of both assignments which would then trigger a review by the GNSO Council on whether or not the framework is working as intended, is it worth continuing and completing the other assignments that were included in the original document as well, or should a different approach be pursued?

So again, that's what is here at a high level. If there are any concerns about either the milestones that we've put in here or any of the timing, feel free to flag. As said, we will be updating this on a regular basis to kind of track the work of the group. Of course, if there are any kind of major changes in the timeline, we'll need to notify the Council accordingly, but as said, for now, we've taken quite a bit of margin on these tasks so that hopefully, there's sufficient time to complete the work within the time frame that has been allocated here.

OLGA CAVALLI: Thank you very much, Marika. I think she pointed very well that this is an estimation of our timeline. It depends on us and on the GNSO Council and the feedback from the community. But this is somehow our workplan and estimation of dates. Any comments about this smartsheet? Let me check the chat.

Okay, I don't see any hands or comments. So let's move to the next agenda item, which is reviewing this taskforce assignment sheet. As Marika pointed out, we are focusing now on taskforce C, accountability and transparency requirements assignment number six, which is about reviewing the statements of interest.

So you may recall—and for those of you that were not present at previous meeting—we've been reviewing this sheet that was prepared by staff and some of us have been adding some comments. In a way to facilitate our work, staff and myself also included some questions in the original document. Maybe, Marika, you can show where the questions are marked in yellow very briefly, so those who will see the document ...

As you can see in each of the items, staff included some questions that could trigger some comments or reactions, and I did include some comments and some of our colleagues did comment in the last call last week.

So that was the situation last week, and the new version is up in the document that we will show right now and we will review it today, which has the original text but improved by the input received in the calls and some of us who commented in the document directly. It's a word document. As I saw, Kristian is requesting more time, so maybe we can have one more week allowing you to review this document, this new version. It's a Word document , you can include your comments or speak up now or send comments by e-mail.

Ideally, if you could just put your comments into the document, perhaps it could be better not to lose what you're focusing on or what you're commenting on. It's easier just to look at the comment into the text. It's very helpful. And if we are okay with this, I will go through the document. Any comments, questions? I see none. Okay, let's move on.

So the first part is a short description. I myself proposed some enhancement of this short description. I think it's much better now. I will read it very quickly. So it's about description of this taskforce.

"The Taskforce is expected to review the existing Statement of Interest (SOI) requirements (see chapter 6 of the GNSO Operating Procedures) on the basis of the questions and guidance outlined below and make recommendations to the CCOICI on what changes, if any, should be made to the existing SOI

requirements, instructions and/or template. As part of this process, the Taskforce is expected to solicit input from the ICANN community on the current use and experience with SOIs as well as suggestions for possible improvements at an early stage of the process."

So if you look at the original document, it was shorter, just talk about asking the community some improvement. So I find it is more explicit and descriptive, so I think the text has been enhanced. Any comments? Of course, you have one week more to review it, but maybe you can react now and take notes. Desiree says it's looking good. Thank you very much, Desiree, for that. Okay, let's move on.

So the background information links, I don't know if we have to go through all of them. I think staff has done a very good job inputting all this background information together. There are some [staff] observations also that we may focus on a little bit. Concerns raised in the past about the usefulness and effectiveness of the statements of interest in highlighting potential conflicts of interest.

We discussed this in the last call and I myself don't know how to fill the form because there is information that is not requested, or I don't know how to fill all the—maybe I should comment when the time comes as a member of the general community.

As noted, it is not an issue to have an interest on the [condition] of some of the policy development process as long as this is publicly declared and known to other participants. For example, some have noted that for confidentiality reasons, certain information such as clients who may be paying for consultant or lawyer

participation may not be declared. Lack of enforcement and certification reduces the value of having SOI. Regular updating is required to make sure the SOIs remain relevant.

At the same time, the recent shift to a representative model may have made the SOI less relevant as members participating in policy development efforts do so on behalf of their respective groups, whose interests are well known, and not as individuals.

One thing that happens to me when I fill the form is that I do several things. I'm an academic and also sometimes I have the additional assignments of working because I'm a consultant. So I never know how to fill it. So sometimes some of us do belong to different stakeholder groups and that confuses me sometimes.

So about background, are we missing some background information in the upper part of this section? I totally rely on our fantastic staff because I don't have all these documents in mind. Maybe Philippe as chair has any other input about this part of background. Whether we don't remember it in heart in our minds, it is important to have it in the document because it's a very important reference.

Okay, any additional comments to the background? Philippe says he—It's okay. I totally trust the staff, I know that they're very efficient. Okay, so the following part is called assignment questions to be addressed by the Taskforce and additional guidance. I think this is a very important part. [This has been redrafted] and reordered from the original version with some input from staff and myself and some comments that we received in the last call.

So, what is expected from the taskforce? This is an important part. The taskforce is expected to address, at a minimum, the following questions. First, Is the original objective of the SOI, as stated in the BGC WG Report, still valid? If not, why not and what should the current objective be?

Number two, based on the response to question 1), is the requested information to be provided as part of the SOI still fit for purpose? If not, why not, and what would need to be changed to make it fit for purpose?

Number three, are there any further measures that should be considered from an enforcement / escalation perspective, in addition or instead of those already included in the requirements?

Number four, based on the responses to question 1) and 2), what updates, if any, would need to be made to the GNSO Operating Procedures?

Number five, based on the responses to 4), are there any updates that need to be made to the SOI wiki page and template, also considering from a privacy perspective whether the current set up provides sufficient safeguards? Only those that are logged into the wiki are able to view SOI information.

So if you reviewed the previous document, [inaudible] this new text added to it and I think it's quite interesting because it [inaudible]. Comments, thoughts, reactions, edits suggested? [inaudible].

Okay, I see no reactions so I will take silence as a yes. Membership composition, we did discuss this in the last call and I

added some comments in the original document. Detail membership composition (see section 3). Provide rationale if changes are made to default composition. This is about the taskforce, how the taskforce will be formed.

A maximum of two representatives from each Constituency or Stakeholder Group and up to two alternates, and one Council committee liaison ex officio. We have a number one footnote. Can we check what it says? This reflects the default composition as was included in the original framework. For clarity, stakeholder group may decide to assign representatives at the Stakeholder Group level or the constituency level, if applicable, but not both. Okay, thank you for that.

Appointing stakeholder groups and constituencies are encouraged to appoint representatives that have specific knowledge and experience with the SOI. Members that are appointed to a taskforce are expected to serve for the duration of the effort and are expected to have relevant knowledge and/or expertise in relation to the taskforce assignment.

One question that came to me when I reviewed this part was, should be a minimum formation of this taskforce? If there are no two representatives, could be one, or we need two and representation of all the stakeholder groups and constituencies. Because I know how hard—people want to participate but then everyone is somehow exhausted with a lot of work. So that was my question. I have a comment from Marika. Marika, go ahead.

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MARIKA KONINGS: Thanks, Olga. Just to note that we've included a maximum. If a group decides to only appoint one or even zero under these rules, that is an option, although of course, the idea of having representation from the different stakeholder groups and constituencies is to make sure that all views are represented. I think we've had conversations in the past at Council level whether a minimum representation would be required or expected, but I think there was never really support to go down that path, because of course, you can't really force someone to participate if they have no interest at all in a certain topic. But I think if that would happen, if the group would decide not to appoint anyone, I think there is an expectation that conversations are followed and when recommendations are made, a group that has decided not to participate would then not suddenly raise their hands and say "We have major concerns about this," because there is a balance to be had there. So as said, this represents what was the default composition as reflected in the framework. If the group wants to deviate from that, that's not a problem, it would just need to provide a rationale for why it would like to change that composition.

OLGA CAVALLI: Thank you very much. Very clear explanation. And Stephanie says in the chat, apologies for not getting comments into the form, I have a few on solving the transparency/confidentiality issues on the SOI. I would stress that these issues are mostly confidentiality issues, not privacy issues, because the issues arise over commercial/competitive interests.

Thank you, Stephanie. Maybe you can input these comments this week into the document., Would that be okay for you? She says yes. Okay, thank you for that.

Okay, about decision making methodology. Detail decision making methodology (see default in section 3). Provide rationale if changes are made to default composition. The Taskforce should aim to make recommendations by full consensus. However, in those cases where this is not possible, consensus designations must factor in the Council's make up and voting thresholds.

For example, when assessing the level of support, the chair should factor in the support across stakeholder groups instead of counting the number of individuals in support or against. Where full consensus is not achieved, the report/recommendations to the GNSO Committee and/or GNSO Council should clearly outline the efforts that were undertaken to try and achieve full consensus and the reasons for why this was not achieved.

And Marika says this is also the default methodology as defined in the framework document. I agree. Thank you for that, Marika. Comments, questions, reactions, edits, suggestions?

Okay, indicated expected timeline of completion of assignment, we have [reviewed the] expected timeline. Although the taskforce will set its own workplan and schedule, it is expected that the timeframe for completing the assignment may take between 9 to 12 months. We already have [inaudible] estimations about [inaudible] as Marika rightly pointed out [inaudible].

And consultation expectations, I think this is the last point, indicate if consultations and/or public comment is expected to be conducted by taskforce. As part of this process, the taskforce is expected to solicit input from the ICANN community on the current use and experience with SOIs as well as suggestions for possible improvements at an early stage of the process. Also, if the taskforce recommends any changes to the GNSO Operating Procedures, these will need to go out for public comment before the GNSO Council can consider these for adoption.

So this is the enhanced document after some written inputs and verbal inputs that we've received from you in these weeks that we have been working with this committee. So the plan would be that you take a moment this week to review it. please note that the link that includes both documents, the one in the lower part is the original one with questions that were drafted by staff and some comments by myself, and this new version which is the upper part of the Google doc does include this input. So it's an enhanced document.

So this is the link to the document in the chat, and we will share it by e-mail and for you to remember and have it at hand. Marika, please go ahead.

MARIKA KONINGS: Thanks, Olga. Just to maybe repeat what you said previously. If anyone has any specific suggestions or comments, please include them in the form of comments to the Google d oc. That makes it easier to see what is being suggested, especially for example if people are commenting on the same section, and allows as well

for reactions or responses to those suggestions. So if people can apply that approach, that would be much appreciated.

OLGA CAVALLI: Thank you, Marika. Any comments, questions, suggested edits or reactions? Okay, seeing none, Marika, let me say that we agree on this document in one or two weeks, just to remind the group which are the next steps for an agreed version prepared by this committee, what are the next steps that should happen in the near future?

Due date for comments, input, Tuesday 28th of September.

MARIKA KONINGS: Thanks, Olga. So basically, once this document is in a final state, if any comments come in by next Tuesday, there is a call scheduled for next Wednesday, so that would allow the group to resolve any kind of outstanding items or edits that have been proposed that may need further review. Once that has happened and the group feels that the document is in a final state, it'll get submitted to the GNSO Council for its review.

I think we need to see whether that requires a formal vote or whether through nonobjection, the Council can indicate that they're happy with this assignment and moving forward. So once that has happened, basically, we would launch a call for volunteers and set up the taskforce to start with its deliberations.

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OLGA CAVALLI: Thank you very much, Marika. Stephanie, go ahead, please.

STEPHANIE PERRIN: Thanks very much. Forgive me if I missed this. I was grinding coffee at one point so you may have explained this. How do we propose to consult the community on the whole SOI issue? And may I say that I think give the—well, what I presume to be a lengthy lack of deep thinking on what we need as an SOI, that maybe a survey, a proper survey asking basic questions might be useful. But anyway, what did people have in mind? And I guess my people, I mean staff. Thanks.

OLGA CAVALLI: Before giving the floor to Marika—I think that she can answer this much better than myself—I think this is an issue of the taskforce, not our committee. Am I right, Marika?

MARIKA KONINGS: Yes, Olga, you're absolutely correct. So basically, the instruction that the committee is giving that a consultation needs to take place and it is up to the taskforce to decide how that happens. And Stephanie, as you know, there's a lot of flexibility in how that can be done. That can either be done through public comment, a session, a survey. Of course, if the committee wants to give some further guidance, if the group thinks that a survey might be the appropriate path to go, it is definitely something that could be included as an example. But as Olga noted, it is really a decision to make for the taskforce how they're going to undertake that consultation. The requirement that the committee is putting

forward, that consultation happens but the practicalities of that are for the taskforce to work out.

OLGA CAVALLI: Thank you, Marika. And Stephanie, you're not alone. I have the same questions in m yes mind when I read this. But it's good thinking. We will see what happens.

Sorry, Desiree, to keep you waiting. I gave the floor to Marika because she wanted to respond to this one. Desiree, welcome, and the floor is yours.

DESIREE MILOSHEVIC: Yeah. And that's fine. I'm asking this question because I missed something, but it was important to go through the document first. With regards to the background information that we gave in the link, it refers to the Board governance committee recommendations and to develop the statements of interest and declaration of interest form.

So I wonder whether the GNSO will have another group looking at this and organizing another taskforce, and how these two documents and forms affect each other, what's not there in the statements of interest should be in declaration of interest form, and vice versa. I understand it's hard to do them in parallel, but if staff has any comments, it'd be useful to hear them. Thank you.

OLGA CAVALLI:

Thank you, Desiree. Marika, you want to comment about Desiree's question?

MARIKA KONINGS:

Yes. I can answer that one. Declarations of interest were developed at the time and they were in use for a while. And I would need to look up the history, but I think at some point, the community realized that there was a lot of duplication in having a declaration of interests and a statement of interest. I think we used to have declarations of interest at the start of every meeting and it became very cumbersome for I think what was perceived as very little benefit. So those were actually removed. And I don't know, maybe Julie has a better recollection of that. I don't know if that was the last GNSO review or maybe even before that. If you're interested in the history, you can definitely look that up, but basically, the bottom line is declarations of interest no longer exist and are not in use.

Of course, it is possible that if the review of the statements of interest reveals that something else is needed or something more might be needed, I wouldn't preclude that as one of the potential outcomes of that conversation. And as said, declaration of interest, that was tried and failed, I believe. But of course, if there's something else or more that is needed, I think that is something that definitely can be considered by the taskforce.

OLGA CAVALLI:

Thank you very much, Marika. There's a comment from Stephanie. I think that we're referring to [inaudible]. And Julie says

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"It was before the last review, I believe they were dropped when the SOI was developed." Thank you, Julie, for that.

Okay, any other comments from other colleauges from different constituencies, apart from Stephanie? Okay, I will make this question to the group. So, are we okay that we give it one more week, especially considering that some of you have been very busy, as Kristian said, and Desiree recently joining the committee and we all have a lot of work to do? So one week more is okay? I will take silence as a yes. I believe there are no comments in the chat. Yes. Oh, fantastic. Wisdom, Philippe. Okay. One week more. Staff will circulate this document. you're welcome, Sebastien. And let us review the document, remember that—Marika, we will keep the two parts, right, the new one and the old one in the lower part? Would that be confusing for those who didn't review it? What do you think?

MARIKA KONINGS: Yeah. We'll leave both of them there for now. The heading should be clear on the document, what you're looking at. The second part is just there for kind of historic purposes, so those that want to have a look at what was discussed previously have that. We can add maybe in bold that that's not the document to edit, in bold and red. It's really the top part that is to be reviewed by the group.

OLGA CAVALLI: Fantastic. So we have one more week, and after that, we will send this document to the GNSO and we will start reviewing other documents. So I hope that you have some time this week. It's not

a very long document we have reviewed today, and I think it will be very good if you can comment or just agree in the e-mail that you're okay with the text. That's also very useful for us.

This was a very good meeting, very short. We have more time. There was one hour allocated for this, and this is less time. So, any other comments, questions, reactions? "Time back to start your review," says Marika. Thank you. I want to thank Marika and Julie and Stephanie and Julie—Julie B and Julie H—for all the work. They're very supportive. And as usual, I've known them for a long time and they're always fantastic. Thank you for that.

Thank you very much for your participation. Make your comments or agree in the document, and we'll see again next Wednesday. Staff will send some notes about these meetings and a link to the document. I wish you a very good rest of the week and nice weekend.

Next meeting, Wednesday, 29th of September at the same time. Thank you. Bye. Have a nice week. Ciao.

[END OF TRANSCRIPT]