

**Transcription ICANN61 San Juan
GNSO Working Session Part I
Sunday, 11 March 2018 at 09:00 AST**

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Heather Forrest: All right, good morning, everyone. While we're sorting out the screens I think we can safely do some introductory material. This is the traditional GNSO weekend session which the GNSO Council has seized the opportunity to do a bit differently this time around. And as you can see we have a number of folks at the table here today; we have the leaders of our five currently running policy development processes, which we'll speak to individually later. We have representatives from the various constituencies and stakeholder groups of the GNSO here at the table; and we have the members of the GNSO Council, and of course it's lovely to see so many people in the room as well.

Our topic today, which the slides will very shortly reveal, is strategic planning on effective and efficient GNSO policy development. We have an agenda this morning that has five principle parts that takes us through to 12 o'clock noon. The tea break at 10:15 is a sort of mandatory tea break; we're going to seize that as an opportunity to be a bit more active, we'll encourage everyone to go out and get tea and/or coffee and then come back into the room to do a bit of brainstorming with white boards.

We have two of them, three of them, four of them now set up around the room. And I'll explain more about what that will be as we get closer to that time. I understand that the ALAC I think ExComm has to step out at a particular time to get onto where they are so I know there are folks at the table who need to leave us before the very end of the session, and we're just

delighted that they've been able to spend a certain amount of time with us this morning.

The very first thing on our agenda is the setting the scene and introduction. We've given ourselves until 9:30 to do that and I'm very conscious that we not go over that time because really this needs to be an opportunity for input as opposed to output from us, if you like. And if I might on behalf of the Council and the leadership team give a very brief explanation as to why we're here, why we're doing things differently at this weekend session.

So we were very fortunate to have received money through the additional budget request process last year to hold a strategic planning session, three days of getting the Council together outside of a GNSO – excuse me, outside of an ICANN public meeting to talk about what was on the GNSO's agenda for 2018, and talk rather strategically and critically about how to achieve that. And in having that discussion we revisited our explicit obligations under the ICANN Bylaws, we reviewed our various governance documents including the PDP Manual and the GNSO Operating Procedures.

And we noted a number of things and noted these things in the context of what the bylaw expressly state is the role of the GNSO Council, which is manager of the PDP. First of all, we noticed that there were various, well, challenges for PDP working groups meeting timeline. We've had a number of discussions over the last few meetings about PDP timelines. And one of the things that we did in January in getting together was intersect all of these various timelines and look at them as a sort of overlapping meta-exercise.

And suffice to say that that made the Council fairly nervous seeing all of those things together and their various trajectories put together. Tatiana is nodding vigorously for the record. We also saw, let's say, in that sense of time a significant increase of time just in getting a PDP and that very initial phase to the stage of an initial report and then of course progressing on to a

final report so that's if you like, an overall lengthening of time in the PDP effort.

And obvious, and we'll see figures to this in a moment, we'll see some data on all of these points in a moment, a very obvious increase in membership numbers and yet really not an equal change in the active participants. So that is a point that we noted and thought would be helpful to discuss.

Possibly mismatches of knowledge and skills of PDP members; increased demands on leadership teams and overall perhaps worrying – most worrying is this focus from moving away from why we're here, the sort of common goal idea, to seeking a particular outcome not being able or empowered to compromise, not being able or empowered to actually form consensus. And all of our documents, notably, in the GNSO are built around this idea of consensus building and we're finding that that's increasingly difficult.

So having noted all of these things in January, the Council realized that we had seized an opportunity, we had moved into a new space and were speaking about things in a rather public setting that up to that point had really only been spoken about very informally and over dinners and coffees and that sort of thing. So we're seizing an opportunity to bring the GNSO community together with the help of our PDP leadership teams and our SG and C leaders to open the floor to this discussion and effectively I think we can say to you, are you seeing these things too? Are there other trends that you're noticing? Are there other challenges or obstacles that you have identified and which ones do you think we can tackle right away and which ones perhaps can we tackle as a longer term measure? Is there a willingness to tackle these things? Have we read the tea leaves properly? And if so, then let's get started.

What I can say on behalf of the Council, you have a Council that's very, very willing to roll up its sleeves and get its hands dirty and make change. And I

think to the extent that we can all seize that willingness I think we have a real opportunity here.

I'll turn to my right and my left, Donna Austin is one of the vice chairs for the GNSO council; Rafik Dammak the other vice chair for the GNSO Council. And I want to make sure that they have an opportunity to provide some input here to the introduction. Thanks.

Donna Austin: Thanks, Heather. Donna Austin. So I think Heather's laid it out pretty well how we got to this point. I think what's really important is – important from this point is that we maintain some of the momentum particularly for the Council in – from our January session. So what we personally what I hope doesn't happen here is that we have a lot of great ideas and we get stuck in how we're going to implement them and take them forward. I think it's really important that we kind of you know, seize the moment and do what we can now to make sure that we maintain – sorry, too early in the morning – yes, well I'm on my second cup.

I think what I'm trying to say is we have an opportunity to change the way we do things. We shouldn't delay those and take three years to do it. Let's try to be expedient in moving forward because I think what was obvious from the Council discussion we had is that we do have some challenges. There are potentially some things that we can do better now so let's agree that we can do that moving forward. Thanks, Heather.

Rafik Dammak: Thanks, Heather. And thanks, Donna, for this. So yes, I mean, I'm not going to add more but we have an opportunity to do a lot of improvement. And I think we have this time to hear from all the working group leadership about any challenges because identifying the problem is the first step to resolve and fix and make any changes that make the PDP more effective and efficient. So we can only say that encourage everyone to participate in this process so we can make it community work and try to move forward.

Heather Forrest: Thanks, Rafik. Thanks, Donna. So what I would like to do is let's go to the next slide please. Let's talk about the – just identify just so everyone can see them, you know, overlaid on those PDP specific or GNSO specific concerns we need to be mindful of the sort of macro level, the environment in which we're in and I think Council was very quick to recognize in January that if we don't have this – or if we have this discussion in a vacuum, we're not really going to get anywhere. And so of course obvious to point out the FY'19 budget. We've all as a community just worked rather hard on submitting comments in relation to that budget. So we're all aware of the pressures that are arising in that sense.

We consider as a group that it's not reasonable to expect volunteers to sign up to a multiyear effort and that's of course something that we're seeing not just in the GNSO but in other parts of the community. And I'm aware that others are very keen on our views here and keen to input their views to this process. The credibility of the multistakeholder model and the reputation of the GNSO, we, yes this is a pretty serious claim but we do understand that the community has certain things to say about PDPs and how quickly or not they get done and how effective they are or not. And this affects all of us so it really behooves us to not simply brush those sorts of concerns aside and likewise, you know, legitimacy and robustness of the PDP.

And one of the things that we acknowledge right up front in January was, you know, the PDP is the vehicle under Article 11 of the Bylaws for developing policy in relation to gTLDs. This is what we do within the GNSO. And so that being our mission critical activity it behooves us to do it as efficiently and effectively as possible.

Could I trouble the – Emily with the slides, could we just go back and look at our timing so we all have a sense – we missed that one in the very beginning? Just so we have a sense of where we are. So we've got this introduction. We'll move onto a roundtable discussion from the various PDP chairs and their view on some of these challenges that we've identified. We'll

then turn to a break, as I said, and we've extended that break to allow for some brainstorming. We'll come back together as a group, discuss possible solutions to these things and then we'll talk about next steps. Thanks, Emily, very much.

So now I will ask that we turn our attention to the sort of, you know, let's just set the scene a bit. And I don't want to put too much time on this but if we turn to the next slide Council of course had three days to talk about – to talk about where we've come from and where we are now and where we might go and we don't have the benefit of three days here. But a catalyst to our discussion, and I've circulated it with the invitation to this session, was a paper that was prepared by Marika and Emily, our GNSO policy support staff members, on optimizing increased engagement and participation while ensuring efficient and effective policy development.

And I think what this has done by way of catalyst is it's put to paper a number of the concerns that have, for a very long time, been articulated but perhaps we as a community were afraid to actually say. And this paper, it's extremely well written. If you haven't read it I recommend it to you. It's tremendous food for thought. We don't have that much time and, Marika, I don't want to eat into your time anymore. We have a few slides and some data to show people so over to you, Marika.

Marika Konings: Thank you very much, Heather. So this is Marika for the record. And indeed we just wanted to give you a quick preview of the paper especially for those that may not have had – does this one work? Okay. I'll just move over here. So to give everyone just a quick overview of what is covered in the paper. And again, this is from a staff perspective, it's really intended to facilitate the conversation and help inform the discussion. You know, thanks to Emily we were able to put in quite a bit of research as well on, you know, other models and, you know, working group dynamics and information on that so we hope that is – was helpful in forming your thinking and facilitating this conversation.

If we go to the next slide? So for those of you that maybe relatively new to the GNSO, the original PDP model, which was actually called a taskforce model, was a relatively limited model, so each group – each stakeholder group and constituency was invited to appoint one individual. They could also appoint up to three advisors so overall the group was fairly small and narrow. These numbers, other than, you know, feedback as part of the GNSO review at the time that was, you know, too limiting, not accountable, transparent, and there was a need for opening that up. So as a result of that review was decided to move to the open working group model which we're currently in.

If we could go to the next slide? So that is introduced basically around 2012 so basically the model we're currently operating in is basically anyone can join a GNSO working group. The only requirement is that you complete a statement of interest. So that has basically resulted in a significant or, you know, gradual but significant increase in membership of PDP working groups, for example, comparing IRTP Part A in 2009, which had 13 members to now looking at the RDS PDP Working Group which, you know, is close to 200 members.

And that the same time that has also been coupled with an increase in the overall duration for delivering an initial report. You know, staff tries to keep track of that as well to get a sense of you know, average timeframes needed to deliver on the different stages of a PDP. So we've gone from 245 days to 661 and counting as most of the PDPs currently running have not reached the stage of an initial report yet.

Go to the next slide. This just graphically shows that increase in working group membership as well as, you know, days needed to get to a next stage of deliberation. I won't dwell on this. For those interested we'll post the slides and you can look at it in more detail. Next one.

And this one also, it kind of shows the increasing timeline needed for the different PDP working groups to get to an initial report. And as said, you

know, for most of these here listed, Curative Rights, RDS, and RPMs, they're not at the initial report yet so the line will further increase which basically on our calculations will mean that it's at least two to four times but most likely more than that more time needed based on previous PDPs. Of course we cannot only contribute that to, you know, increase in membership, there are obviously other factors that will weigh in on this, you know, the complexity of the issue, the opinions on the issue, you know, the – how far is the community apart on it. But again, it gives a bit of an indication of, you know, the timelines we're currently at.

Go to the next slide. So the staff discussion paper based on the research and observations we made, you know, tried to draw a number of conclusions or provided a set of information, you know, again based on the research we did and our observations in supporting these groups. So larger working groups are obviously more difficult to moderate, you know, even for the most experienced chairs in an ICANN community.

There's also this concept of social loafing, which is a phenomenon that has been researched and a number of papers and circumstances that larger groups make less effort to work towards common goals. And I guess that also has of course a relationship with, you know, the trust, you know, how well do you know a group of 200 people versus five people you work with? So there's some kind of obvious findings that you can draw from that.

You know, growing size, teams and groups, may experience reduced cooperation so there's usually higher levels of member dissatisfaction and increased turnover in membership and that's also something we've seen with the longer duration of working groups. You know, many people cannot commit, you know, three or four years to a working group effort so we either see people kind of dropping out after the first few months once they realize that this is not going to be done in six months, or kind of coming in and out which also brings challenges with it because it means that people have

missed conversations, will bring up new issues or you know, redo work that was previously agreed.

And certainly, you know, one of the challenges we also see is, you know, people coming in after two years of working group deliberations, there is a requirement for new members to, you know, catch up and review everything that has been done but basically if you, for example, look at the RDS PDP Working Group asking anyone to go back for two years and review all the calls, all the transcripts, all the documents, it's simply impossible. Which then means that you're redoing a lot of the conversations because those members are not up to speed or don't know exactly what has been discussed previously.

At the same time, and I think that's what Donna observed as well, you know, we do have more members in working groups but it doesn't necessarily mean that work is getting done quicker or it's more spread out. I think many people still feel that it's, you know, still the same set of hands that are doing most of the heavy lifting. We've also seen that, you know, some community members come in basically lack the skills and knowledge or resources to contribute from the start in a meaningful way which then frustrates those members that, you know, are expert in a certain topic or have been doing this for many years, I guess again, creating frustrations on both sides.

And as said, you know, the joining late in the process, you know, may intentionally or, you know, unknowingly reopen debates or matters that have been agreed previously.

Go to the next slide. So again so from staff perspective, and I know this is something you'll be discussing further in the next segment of today's discussion, you know, some of the challenges that, you know, that staff has observed is, you know, are inclusive and effective – is that a contradiction in term? Can you really be inclusive and have the whole world participate in

policy development and still expect to be, you know, effective and deliver in a timely manner? Have we gone too far focusing on quantity over quality?

Should there be or is there a need for certain level of expertise and knowledge before you're thrown into the PDP pool? Maybe there's, you know, a training pool that you need to go through before you're actually expected to full participate in policy development. The question of who's accountable to whom, you've seen in the taskforce model, you know, people were assigned or appointed by stakeholder groups and then as such, you know, representing a number of stakeholders. With the increase in membership we've also seen a significant increase in individuals participating and the question is, you know, who are they representing and should those voices which are of course important but should they weigh equally to someone who's representing a whole community and speaking on their behalf?

Consensus by exhaustion is also something we've seen where the process is drawn out for so long that at some point people just say, look, I can't spend more time on this, I don't care. I mean, is it really worth debating, you know, four years this minor detail? You know, I'll just give in because I can't spend more time on this or my employer won't allow me to spend more time on this.

Similarly we've seen as well a trend towards focusing more on treating policy development instead of consensus – getting to consensus and working together coming to compromise as a negotiation tactic where people just come in, may not understand you know, what is behind the PDP and the objective are basically saying this is my position, this is what I want and I'm not moving from here, which of course is not the underlying thought and approach with regards to GNSO policy development.

And I think as Heather already mentioned as well, of course what is, you know, the underlying and I think why we're discussing this is, you know, the legitimacy of the multistakeholder model and the ICANN bottom up process

and as well the credibility of the GNSO as, you know, the body responsible for policy development is at stake here because if the GNSO cannot deliver on its main remit, you know, what credibility does it have as an organization which of course then also affects the broader you know, ICANN model.

And I think that is all I had so I hope that was quick enough.

Heather Forrest: Thank you, Marika, very much and very much to you and Emily for the fantastic food for thought that really is the genesis of us being here today. We have a few more slides by way of introduction but I propose that we breeze through them very, very quickly. These points will be familiar to those of you who have participated in GNSO policy development for any length of time. We introduce the notion of the PDP at the beginning. It's important to note that the PDP model does actually provide a fair bit of flexibility, we're not completely hemmed in by the documentation. There are things that we can change even without changing the documentation.

And the point here to note is just because we've done things a certain way in the past doesn't mean we have to continue that way. This isn't, as Marika points out, the first time that we've sat down to talk about how to change the PDP and make it better and it seems an opportune time to do that now.

You'll see that there's a link to documents in the slide, in our next slide we've got links to ICANN's Bylaws. Annex A provides a number of useful documents in relation to the GNSO. We have the PDP Manual as well, the GNSO Working Group Guidelines, the PDP Working Group Charter Template. And if we had much more time we could go through some very specific provisions here that I think would skill us all up as a community.

The GNSO Council has had a fantastic opportunity to do that in its strategic planning session. And I encourage you even if you think you remember what these documents say, we caught ourselves out in January and realized we didn't understand them as well as we thought we should. So I will put my own

hand up for mea culpa and encourage you to have a look at those documents.

With that, let's turn it to the main reason why we're here which is hearing from everyone that's in the room about their own experiences with PDPs. So if we could turn to the next slide and then indeed to the following slide, which sets out the sort of ground rules for how we need this to be effective. One more slide. There we go. Thank you very much.

So of course it's going to be hard, try to be brief, try to be concise. The more input we receive today the better off we're going to be. We do have a vehicle which staff have prepared in the form of a Google Doc for collecting input from those who don't have the microphone. If I would say avoid plus ones if something has already been identified as a challenge, we'll have time later on to say me too as opposed to wasting your 10 minutes of time to do that now.

Don't let's talk about solutions immediately; we'll save that for after the break or during the break and after the break. And, you know, we want to be – we want to be critical, we want to be self-reflective, we want to be professional and we want to be appropriate. So we'll leave that as that, yes? And with that let's turn it over to our fantastic PDP leadership teams. So we have on the next slide a bit of an order. It's chosen at random but let's go ahead and – let's go ahead and use – don't you love when someone says it's chosen at random? So our cochairs for Subsequent Procedures are Cheryl Langdon-Orr and Jeff Neuman who are seated at the end of the table. Guys, over to you.

Jeff Neuman: Thanks. This is Jeff Neuman. I'll go until my voice gives out. Actually no, I won't go that long, sorry. So thank you, Heather, for organizing this session. I think it's really important. I've been involved in the community a long time and as Marika was so kind enough to remind me this morning, I'm one of the people to blame for this new PDP version 2.0. But in my defense, there was a PDP working group on that and, you know, it was a good group but it suffered

from a lot of these problems so it's interesting that the PDP group to determine the rules of the new PDP had the same problems of participation and others that all the future PDPs had.

That being said, I'm personally of the view that while there are certainly changes around the edges in the way the PDP rules are now, and the way that the Working Group Guidelines are, those documents, while there are certain changes around the edges, I really don't think the problem is with the processes that have been set out. I think – and this may be unique amongst what you might hear from others, but I think the problem is – and I've said this for a while – it's the people participating.

It's, you know, for some of the reasons that were said before, I think that, you know, that we are responsible, the participants as well as the leadership are all responsible for all of the issues within each individual PDP. So as was said before, there's really not much of an incentive to compromise. You have lots of people come to PDP, whether it's a PDP of 30 people or 300 people, and what you have – and making them smaller is not necessarily the solution but what you have are a lot of consultants, lawyers, sorry Paul, and other that are there representing clients and that may not be empowered to make compromises, that – and I'm not saying, Paul, you, I'm just...

Paul McGrady: Jeff, could you remind us what your last degree you earned was?

Jeff Neuman: I'm a recovering attorney. No, so – and of course, Paul's right, I mean, like when I first joined I was, you know, in 19-whatever – I was an attorney representing clients. And I know the feeling of, you know, you go to these groups and you're only empowered to very little bit of compromise. You're there to represent your clients. And there's a lot of people in PDPs that are there to represent their clients. And it's not just lawyers, you could come from a nonprofit organization and you're there to represent your client.

So you are not – there's no incentive to compromise because at the end of the day you've got to go back to your company, your academic institution or whatever it is and you have to explain to them why you deviated from the very initial position that you may have had and there's not many that are empowered to make those decisions.

I find that as being one of the toughest challenges. I'm certainly looking forward to hearing recommendations on how we can overcome that. Another area that's related to that is that there is no – there are people that participate that are actually rewarded by not compromising. There are many people that participate that are happy with the status quo or happier with the status quo than making any changes. And so when you have that the goal there is not necessarily to make any kind of compromises, it's you know, let's drag this out as long as possible so we can have whatever is existing stay as existing.

You know, I'll point to the Subsequent Procedures right, in theory there are people there that don't want new TLDs and so for them having it take four or five, six years it's a good thing, or longer so they're not really incentivized to say you know what, let's make a compromise so we can actually get the process moving.

There are others that want – on the other side, that want TLDs very quickly right away and they're willing to compromise everything or just, you know, basically say let's deal with this later and kick the can down the road so it's on both sides. There's also – and this held by every side, and when I say "this is held" I'm not saying other people, I'm pointing to myself as well; I'm just as guilty as everybody else.

But there is a feeling when you participate in a group that if you give an inch they'll take a mile. It's constantly that view. So even if you or your group believe that, okay fine, that's not a big deal, we can find a solution that, it's always the fear that well if we do that, then what's the next thing they're going to ask for? Or what's that going to lead to in a couple of years? It's going to

lead even further down to a place that I never wanted it to go in the first place.

So you have a mentality of I can't give them anything because I was burned the last time. Six years ago I said okay to this thing and I was afraid to but because of what it might lead to, and guess what, it lead to that and I'm never going to do that again. And in fact there was just a discussion on a list I'm on that pointed to a quote to 2011 when they said that this was their fear, they gave in on it and the fear came true, that's seven years ago.

So I'm not saying that that fear is not justified but if everyone comes into the PDP with this if I give an inch they'll take a mile, then you're not going to give anything. And so again, it's for all of those reasons, that's the challenges that as chairs or as work track leaders that we find in the Subsequent Procedures PDP, and I'm sure it's found in all of the PDPs that, you know, you need an incentive to compromise; you need people that are empowered to compromise and you need to go into it with a good faith belief that if you're willing to compromise others will be willing to compromise and we'll not necessarily have an ulterior motive to do something several years down the line.

So I don't know how we solve those, they are very difficult issues. They're ones that we struggle with every day that Cheryl and I struggle with and we try our best. And at the end of the day we realize that there may be certain solutions or certain issues that we will not have consensus on and at the end of the day what does that mean? Does that mean the default is whatever exists today? And if that is the default then there are people that are incentivized to not compromise. So there's all these things that are in the mix, there's all these things that we need to solve but at the end of it's my belief it's not the problems with the rules, it's not a problem necessarily with the liaisons of the Council or the chairs, or, you know, there's all these things on the edges that I keep hearing blame, although we are not as chairs, blameless, but it's...

((Crosstalk))

Jeff Neuman: Okay, Cheryl's blameless, I am not. But at the end of the day we all as participants need to take a look at ourselves and you can have the best rules, the best leaders, the best liaisons at the end of the day if those things don't change, if people aren't empowered if they can't compromise, if there's this feeling of giving an inch, taking a mile, you'll never get anywhere. So thanks.

Cheryl Langdon-Orr: Wow. Okay, Cheryl Langdon-Orr. I'd say the PDP process is an ideal example of what a multistakeholder model simply has to suffer through. I don't believe other than perhaps some appropriate adjustments and tinkering around the edges that the rules are a particular issue or problem. I do think that Jeff made some good points in terms of the incentives and the construct that we work within. I think there should be sets of agreed expectations of why people come into a PDP process and what the end game is intended to be and perhaps we could do better at that.

But for me, all of the concerns about the size of the group, the fact that things get to be revisited, the fact that different voices are heard in different ways, at different times, to do that – I admit a reasonable amount of time and (easy) going into it, within a PDP process means that an outcome, consensus or part thereof, or lack of consensus, will stand a test of wider community acceptance or not, you can have an extraordinarily efficient outcome from a group of already likeminded individuals in a very efficient PDP process and then all you're going to do is get challenges and difficulties later. And you'll get them from the advisory committees.

You don't gain time, you don't gain outcome, you just postpone where the critical incident occurs. So I think we should work toward finding a way of making and empowering what goes on within a PDP process and I think we also need to look at how we better equip the leadership – the work track leaders, and I hope they get to talk later – how they could be better equipped

to do the best job possible to meet those gaps. That I think we can tinker with and we can do a better job of. But we'll talk about that in the next session. And Jeff's going to jump in.

Jeff Neuman: Last comment that I forgot, and it's a comment – it's an ask from the Council which is, and this has happened a lot in the past, which is that if the Council finds that the processes were followed within a PDP, and whether the individual councilors or groups within the Council like or don't like the recommendations, if the PDP operated the way it was supposed to, the working group, and if the outcomes were driven by consensus or rough consensus or whatever the outcomes are, it is very important for the Council to support the decisions of the working group.

It is important that the Council does not put itself in a position to pick and choose recommendations or to change certain recommendations regardless of whether there's individuals that agree or disagree on the Council with some of the recommendations. Again, this is only if the Council believes that the group operated the way it was supposed to. And I think in the past that we've seen and especially when if you look at the – again, this is Subsequent Procedures, if you look at the 2007, 2008 recommendations for new gTLDs, there was a lot of tinkering by the Council – individual Council members of the recommendations.

And so that I implore is that the Council – what we ask of the Council is to support the PDPs and the findings and then send it to the Board. Thanks.

Cheryl Langdon-Orr: Or send it back if it needs a rework.

Heather Forrest: Thanks, Jeff and Cheryl, very much. And that was not my – that was not my husband calling, that was your 10-minute timer. Unfortunately our timer, you know, this is ICANN-land and our timer in the Adobe is set for two minutes and so I've been running your 10 minutes but I realize it might be a benefit to

you since you can't see it on the screen that we'll sort of flag you at the halfway point so that you know how much time you have left.

With that so thank you very much to Jeff and Cheryl. With that let's turn it over to RDS and our chair of RDS is Chuck Gomes. Chuck.

Chuck Gomes: Thanks, Heather. We don't have – in our working group we don't have any of these problems.

((Crosstalk))

Chuck Gomes: Now just a little side bit of humor, it's significant that I'm following Cheryl. She gets that; most of the rest of you won't. But actually it's good, Cheryl, this time that I'm following you. Let me first of all compliment the Council leadership and the Council. You're on the right track and so I sincerely compliment you on what you're doing.

Secondly, I want to encourage all of you if you haven't done it to read the discussion paper. It's outstanding. It's really on target. Please look at that. Thanks, Marika and Emily for that.

I want to – before I get into my points – want to agree with Jeff and Cheryl about the point I think I heard both of them make and that is I don't think it's the model; it can be changed, it can be improved but I don't think it's the overall model that's our problem. And so I'll just leave it at that.

Now, on my flights here is when I spent time focusing on the questions that were asked, including the one we're talking about right now. But I want to share with you before I share my thoughts that these are my personal thoughts. We have had two leadership team meetings here but our focus was on our face to face meetings here, not on this topic so we haven't had a chance and hopefully the vice chairs will have a chance to share their

thoughts independent of mine and they may be different than mine, so these are my personal thoughts.

I identified three things that I think are main hurdles for the success of the working group model and in particular the working groups that we're talking about today. The first one, and maybe the most important one, is different interpretations of ICANN's mission. We actually encountered this one directly a month or so ago when we tried to focus on ICANN's mission and see if we could come to agreement in the working group on what ICANN's mission is.

We didn't succeed very well, okay? There are two – and obviously there are variations of this but there are two ways ICANN's mission is interpreted. One of them is very rigidly and by the way I think there's a time for that because you don't want to extend ICANN's scope, go beyond mission and I'm a supporter of that.

On the other hand, you can pick things out of ICANN's mission that apply but may not be stated directly in the mission. That has been a real hindrance in our working group there. And I personally think that both sides have legitimate rationale for their positions. So that's the Number 1.

Number 2, and this was kind of hinted at in several places, the paper and the discussion paper and even some of the discussion today. Number 2 is that members do not stay current on what has happened. And the problem applies to new people coming in and we need to allow that, but that's the second thing. That causes the leadership of the working group and the working group as a whole to spend an awful lot of time that otherwise wouldn't be necessary. Now I know how hard it is, Marika hit on this, in our working group going back and coming up to speed on two years of work is a challenge.

The third one, the third hurdle is fear. All of us are here because we have interests, we have our own positions and we want to win those positions. And

so what – and I’m sure this is true of all working groups, it certainly is true of ours. What happens is people start getting very defensive and they want to refine – we got to define this and because we’re afraid that we’re losing ground on the position that we want. And I get that. At the same time we need to get beyond the fear and work with one another to see how we can find compromises that are most beneficial for all sides of an issue. And I’ll stop right there because I know we’re not going to solutions now.

Heather Forrest: Thanks, Chuck, very much. You have four minutes and 34 by my clock. And would your vice chairs like to add anything? Chuck, I’ll let you turn over to them.

Chuck Gomes: Thanks, Heather. And we have four vice chairs. We have one from each stakeholder group. And so Michele is from the Registrars, David from the Noncommercial, Alex from the Commercial and Marc from the Registries. Okay? Now by the way, in terms of – I have found this hugely beneficial to me, not that it’s helped us speed up our progress, but having each of the stakeholder groups represented really helps and I guarantee you, we don’t always agree, but we are able to examine multiple sides of the issue. So I really thank them for their contributions. And it takes a lot of time to – for them but I’ll let them add any comments that they have and I’ll start in order around starting with Michele.

Michele Neylon: Thanks, Chuck. Michele for the record. Yes, I think it’s timely that we’re having this discussion because the RDS PDP is a – I’m trying to find a diplomatic way of describing it. I think words like war of attrition kind of wearing you down until you just eventually just give up. These are all experiences that many of us have had over the last, I don’t know, decade or century that we’ve been in that PDP, though I know it’s only two years, but it feels much, much longer.

The staff paper is helpful because it does identify things that as others have mentioned, we’ve all been whispering about but nobody’s actually come up

and said, this is an issue. I mean, from my – just from my own personal perspective I think the model we've gone – we've gone from one extreme to another and we need to reset and come back to something in the middle. And by that I mean, you can't have a working group with 200 plus participants, that's just not workable.

Going back to an extreme where you only have four, five or six participants also isn't workable; you need to find a happy medium. I mean, in the RDS PDP we've had a lot of people coming in who are entrenched in their views and aren't interested in finding solutions. And they don't – they are not participating with a view to finding a solution; all they're interested in doing is pushing a status quo or a completely entrenched position, they're not trying to find a middle ground.

Whereas when we went through the experience, which was bizarre, with the EWG, we operated in a way where the members were trying to find solutions. It didn't mean we'd agreed but it was very much kind of a give and take, kind of series of compromises and whether you love, hate or otherwise what we produced we were acting in good faith. Whereas in the RDS PDP, you know, you go onto that mailing list and read what people are saying, and whether you're reading it this week, six months ago, 18 months ago, there's been very little evolution. It's not as if people actually want things to change and that is truly depressing. And we need to do something about that. We need to have a reset, we need to be able to turn around and say, you know, enough.

David Cake: So, yes, speaking not so much as a member of the Noncommercial group but as a – part of the leadership team here, and, you know, obviously I agree with many of the things people have said, especially what Michele and Chuck and Jeff have all said. But I want to look, in the spirit of focusing on different problems rather than restating the ones, the three of the PDPs here are the top three are all very large and have a very large remit and the amount of information certainly on the RDS one has – the amount of information that we have had to look at is enormous. The number of issues in this PDP are huge.

And on the one hand we've got two problems there, one of which is well for those who are sort of wanting to be in the center of that PDP and fully engaged then there's just a – it just adds to the workload, the enormous amount of information we're expected to take in, which is actually, you know, expanding about the rate we might reasonably expect people to consume it as new information about the GDPR and things comes out every week. But it also means that we have trouble with people who have you know, expert knowledge on a very specific area we don't really – wanting them fully engaged may not actually be the right solution.

We may want them to come in, provide their knowledge in a specific area and then, you know, tell them you don't need to hang around and do everything every week because we really – I'm speaking from the point of view of, you know, your one specific expertise and your one specific group who may only care about a small bit. We need to find a way to balance that and to do useful things. And we do find that sometimes those people can be fantastic when we split into small groups and look at an area and they give us a knowledge dump on their area and we all go oh that sounds really good.

But you know, we can – how do we have people – how do we manage the engagement of people that have really useful opinions and really useful knowledge for a small part of the PDP? Okay, thanks.

Heather Forrest: So we have Alex Deacon and Marc Anderson as well who are vice chairs here. The alarm has gone off and I'm mindful that we're now eating into time for other PDPs. Alex, Marc, what would you like to do because I don't want to give an impression that we don't want to hear from you.

Alex Deacon: Well I had some comments but maybe what I'll do is I'll wait until later when we talk about specifics. I'm happy to yield.

Heather Forrest: Thanks very much. That's very kind of both of you, thank you. Let's turn it then to the next PDP on our list which is the Review of All Rights Protection Mechanisms. Kathy Kleiman and Phil Corwin are cochairs and Phil is not with us yet, but Kathy, over to you please.

Kathy Kleiman: Hi, everyone and thank you for the invitation to join you. I am Kathy Kleiman. And I am the only cochair here. And I didn't find out about this meeting until yesterday so of course I haven't consulted with my cochairs so I speak for myself. And I haven't consulted with Phil and as you know, J. Scott Evans, a marvelous, marvelous cochair, and he worked so hard over the last few years, has resigned so we are looking for a third cochair. And that will be a process we'll be engaged in later today a discussion of how we're going to do that. So these thoughts are indeed my own.

I wanted to preface with – and I've been on almost every kind of policymaking body that ICANN has ever had. I've been taskforces, I've been on review teams, I was even on the Council back when we were the policymaking body and thank goodness that's no longer the case; you are the policy managers and what you're doing now is very, very important so thank you.

As I was going to sleep last night I was trying to think about the challenges of the working group and the problems because that's what you're considering. And what came to me was a different list and I couldn't get it out of my mind all night. What came to me were the opportunities where what's good about the working groups that we're working with now.

And let me just give you the list because this is what's in my head, and then we can get to the problems. But the good things now, the big one is openness, inclusion, participation, newcomers, global staff, technical people, lawyers, policymaking people, a real diversity of people. People are staying in our working group, it's amazing, they're really staying.

There is a receptiveness to new ideas. We have new voices in newcomers and some of them are absolutely brilliant. And we have cochairs. And I just want to share with you that every time in our leadership meetings where we meet with senior staff and cochairs where I've tried to say, hey, why don't we kind of put a you know, put a blanket on the discussion, why don't we kind of put our arms around it, Phil and J. Scott have always said, censorship, we can't be censors, we can't stop the discussion. Which I always think is very funny when they say that to me because of my free speech background.

So we have about 150 members but that's not who's participating so we've got about 50 participants on every call, which is incredible, 40-50. But really participating is a core of about 10 people who are actively participating, but they're not all the usual suspects and that's one of the cool things about our working group, we have new people coming in.

I wanted to share with you that the chat room is actually a training lane. And so I just wanted to share kind of a different view of the chat room because I know some people view it as noise. But what I see happening in the chat room is that newcomers are – newcomers and also people kind of who aren't as old as those of us who've been here since, you know, the beginning of time, are testing our ideas and trying to see if there's agreement. They put things into the chat room, things that they're thinking about, some really interesting stuff comes into the chat room.

And then when they kind of agree then they eventually come onto the phone, they kind of get that energy and that affirmation to come onto the phone. So chat rooms are not, I mean, I have to learn how to see the little print when I'm chairing but chat room are training lanes. And this is really important.

I also wanted to share something that was in the slides and that we've heard not all PDPs are equal. We're a review PDP, a Review of All Rights Protection Mechanisms and so if we were to limit who participated we might

wind up with the same people who wrote the rules reviewing them, so kind of this openness and inclusion is part of the review of what's the impact of these rules we created? We're on Phase 1, so for the new gTLDs, what's their impact on the world? And we're hearing from new leaders as well as old what that is.

So issues that I wanted to share with you that come to mind are the charter. You're sending us very, very broad charters, very, very broad. Passing on many, many questions that come in. If you could narrow – so our charter has to do with reviewing and evaluating and expanding and narrowing. If we had a narrower charter, if – and I don't know how to do that but if in some way you set the mission and the goals we could work off that. But that's hard, I understand that's really, really hard but let's think about charters that are more focused.

And data, oh my gosh, we need lots and lots of data, that's creating major lags. We've come to you before to talk about data. We had some data to kick off with because the GAC had asked some questions so we data from the Analysis Group and that was brilliant, that gave us a place to start with the Trademark Clearinghouse. But if you could think about the data. And I know that's hard because before you kick off a PDP working group you won't have the cochairs to think about it with, but if you could think about the data and kick some of it off that would give us data to work with. Again, I don't know how'd we do this but charter and data come to mind.

And I just wanted to share a closing thought about efficiency. And I think I maybe echoing Cheryl but in other words. In the United States we have a saying that democracy is a horribly inefficient form of government, but it's the best one we have. So I'm not sure efficiency, I mean, I want to be efficient but also it's the – this diversity of voices and the fact that we're training the next generation of our leaders here in the process of doing these reviews and these PDPs. I'd hate to lose some of that. So thank you for the opportunity to participate.

Heather Forrest: Thanks, Kathy, very much. Let's turn then to our next PDP, which is Curative Rights for IGOs INGOs. We have two cochairs of that PDP, Petter Rindforth and Phil Corwin. And indeed, Petter might be with us by remote? I'm not entirely sure.

Petter Rindforth: I am.

Heather Forrest: Well done, Petter, excellent. Perfect intervention, perfect timing. Petter, would you like to give us your perspective please?

Petter Rindforth: Yes, I can give you just a quick summary. As today we have 25 working group members. And I presume we are the worst example of all of these. We started with 28 active members and observers and now we have 25 and 17 observers and still cover in a decent way all groups of interest. But during our meetings we are somewhere between 6-10 participants. And believe it or not, fairly quickly on our work we split up in different working groups and we come to conclusions on most of our topics but we have one specific...

((Crosstalk))

Petter Rindforth: Sorry, can you hear me?

Heather Forrest: Yes, Petter, we hear you. Welcome back.

Petter Rindforth: I had to – yes, so we have one specific topic, it's the Recommendation Number 4, what happens when an IGO succeeds in asserting its claim of jurisdictional immunity. And that specific topic turned out to be legally rather hard to find a solution on. And we have conducted specific external experts. We have also reached out of course to representatives of IGO and GAC to get inputs. And we had some meetings with IGO representatives where they made some comments but unfortunately most of their input from their side has been to refer to what I've stated long before and initially.

And so we had three options for discussion and we discussed this in our working groups continuously to try to find some kind of solution. We also had a preliminary anonymous poll in October with no objection from any working group members. And when it turned out that one of the options may have somewhat not a clear majority but some kind of small majority on the working group referred to that and preferred that, then suddenly we got a number of new options from working group members.

And what we're trying to do was to conclude the procedure and have another poll. And then we were accused to not listen enough to all the working group members. And we have a – no names but between 1-3 working group members that think that we should discuss all issues once again and in fact actually we had one working group member that went back with a suggestion with one of the initial topics we came to a conclusion on and wanted to open that discussion again.

So I think the problem for us is to have a clear – something that we could refer to when we say that, now we have come to a final time when we can have – when we cannot accept more new proposals on the same topic. We have these topics and we will reach out to the full working group to get their input and see if we can come up with some kind of majority.

And another problem, as I said, we are very limited number of working group members are active on the calls but the staff assisted us for a couple of months ago to reach out to all these inactive working group members and as a reminder, they said that they wanted – they still wanted to be ordinary members of the working group. So the fact is that we have a number – decent number of working group members that are interested to participate but for some reason they are silent on the calls we have or they don't even participate.

And what we wanted to – what Phil and I wanted to do was also to reach out to them and give them a possibility to come out with a final written input so that we had a full view of what they – what they think about the topics.

Heather Forrest: Excellent. Thanks very much, Petter, much appreciated. And thank you for joining us remotely. That leaves us then with one PDP which is our reconvened PDP on protection of certain Red Cross names. And that was chaired and is chaired in its reconvened form by Thomas Rickert. Thomas.

Thomas Rickert: Thanks very much, Heather. Hi everyone, and thanks for the invitation to this meeting. And I would like to, you know, we shouldn't plus one but let me join others in saying that this is a great initiative that the Council actually looks at these things.

I think it was John Berard who said a couple of years back that the multistakeholder model is loud, slow and messy. I'm not sure whether that's (unintelligible) time but I guess you get the idea. And I'm sure that I'm not the only one who knows at the outset of a PDP pretty much exactly what the outcome is going to be. But it takes the community a year or so to meander around to exchange ideas from all sides of the spectrum to then come to a consensus. And I personally I can't think of a silver bullet to expedite that so that you can really get the discussion going very pragmatic because you need to be inclusive. Everyone wants to put their positions on paper, or on the record, maybe for the reason that it's their own favorite subject or because they have a client that they're working on or a group that they're representing, they want their views to go on the record.

So I guess you know, that's something that we have to accept as a fact. Maybe there are smarter ways to collect all those views and to represent them and to archive them, but I guess that's something that you need to accept and that is actually what gives legitimacy to this whole process, that all views are heard and all views are taken into account.

I think when you count days that the PDPs take, we need to be fair and maybe distinguish between real work and maybe other external factors that are chiming in that make the whole process take longer. Let me illustrate this with an example from the reconvened PDP working group. We wanted to do this as quickly as possible so we're talking about the reservation of a limited number of strings for IGO and – for Red Cross Red Crescent organizations around the world.

And we thought that it would be a great idea to present to Council a recommendation including a formula on how we composed these names. You know, so there would be with blank – yes, with hyphens in it, without hyphens, then certain language would have the common name of the organization. And if you use that formula and you apply it to the roughly 200 organizations around the globe, we thought we would be good to go so that staff can then operationalize that so that would have our job done once we come up with a formula that avoids excessive additions to – of new strings that we don't want to have reserved, right?

Council did not want that. When we came up with this idea Council was very clear that they want to see the finite list of strings to be reserved. So we went back to the representatives of the Red Cross Red Crescent organization and we said, well, you need to come up with that list. And that takes them weeks or months or produce to go to all the national societies and ask them for the translations and transliterations and what have you, in all the different scripts and what have you.

So that – but that is something that I wouldn't necessarily add to the time that we've spent on the project while we're waiting or if a PDP working group as so happened in the Curative Rights group, was waiting for external legal advice. Right so I think you should probably have a grasp and a net number of days that the PDPs take, just to be fair about how much time this community takes and how much time it takes in total.

Then I think that it needs to be said that we have awful – that we have awesome – that was no Freudian slip, I promise – we have awesome staff support. And, you know, at least as far as I'm concerned whatever I've – they read my lips basically, they read my thoughts. They were just great. And maybe here and there we can make even better use of them but, you know, the staff support is great. And I think that hasn't been the case like 20 years back or so when everything was more boot strap, you know, so we should be very proud of what we have today so that is awesome.

Now, with Red Cross Red Crescent IGO names, I think there is another problem that comes into play and I'm not doing anything or pointing, just trying to establish facts for this group. And that is that we had a community process going and the groups concerned have been lobbying the Board in parallel and they have been lobbying the GAC in parallel. So we had the community process going and then we had GAC advice coming in on the same topic during the process and we had the Board taking preliminary decisions on that topic.

And I guess that that probably also led to some frustration within the community because the volunteers thought regardless of what they were doing it might be overturned by what the Board is doing individually or what the Board might deem politically adequate to do in response to the government requests. So I think that we can't only look at what we're doing here in isolation but we need to take a look at what's going to happen to the recommendations once they get to the Board. And I guess Jeff made an excellent point about the role of the Council, which I think can't be clarified often enough, that the Council is not there to make policy but it's the steward of the policymaking process.

And with this reconvened group, which had a predecessor which was the original PDP group, we got our recommendations voted up by all Council members unanimously. And so went on the record, and I will never forget this, they sort of said, we hate these recommendations, but the process was

good and therefore we voted up. And I guess that's the way it should be and I think we need exactly that clarity on the role of the GAC as well as on the role of the Board so that there is more predictability throughout the whole process.

The last point that I want to mention is that some of you may know that I have another small project that I've been taking care of over the last couple of years and that's the CCWG Accountability. And Work Stream 1 was I guess an excellent example of what the community can pull off if there is a deadline. Right?

And I think that sometimes when we have PDP working groups doing their work if there is no pressure, if there is no incentive to get things done, there is a tendency to let it linger on, right? So I think that probably we don't have too much volunteer burnout, but we should probably think of incentivizing quick work. And that is, you know, predictability of the whole process, that is maybe that it's done in a certain period of time so that everyone can work towards you know, achieving something, having something done where they're part of because in some of the groups you have so much turnover in participation the folks that have originally started with it are not even in their jobs anymore, you know, so that's something that I think is a big issue.

So for some groups the tasks are too big, I guess for an individual PDP working with sub teams and all that is fine. But I guess it's still an issue that you have massive pieces of work to be done that are probably too big for an individual group. And the bigger the task the more people you attract and that leads to these massive groups of 200 plus people which are extremely difficult to manage.

So I think I should stop here. I would – I have solutions to all of that but I'm not supposed to talk about solutions now so you have to be patient and then I'm going to reveal those.

Heather Forrest: Thank you, Thomas. And thank you, everyone. And that's a perfect transition to what we would like to do next. So before I turn everyone over to tea, what I'd like to do is just very, very quickly summarize and if you like assign our PDP leaders, they've been excellent in volunteering to lead us in some breakout groups to start talking about solutions over the tea break. So Jeff, you noted with particular emphasis this issue of not being empowered to compromise. Would you be willing to lead us in some brainstorming on solutions around that? Yes, fantastic.

And Cheryl, you came to us with mainly suggestions, is there a particular issue that you think you'd like to focus on in terms of breakout?

Cheryl Langdon-Orr: Perhaps setting expectations.

Heather Forrest: Excellent, so setting expectations with Cheryl, empowerment to compromise with Jeff. Chuck, you gave us quite a bit to think about, different interpretations of ICANN's mission, fear and members needing to stay current. Which of those would you see as your biggest bug bear that you think we can usefully discuss over the break?

Chuck Gomes: Probably the – keeping members current and probably expand on that a little bit but keeping members current and efficiency of the model, okay.

Heather Forrest: Perfect. Thanks, Chuck. And there has been quite a bit of chat around that in the AC chat room so I think that's great. RPM, we've noticed charter is too broad, there are too many questions, the need for data and efficiency is not the end all be all, forgive me for my very quick summary of that. Kathy, which one of those would you like to lead the charge on?

Kathy Kleiman: Can we talk about charter and data, things – directions that the Council might give at the outset. Thank you.

Heather Forrest: We have curative rights and Phil, you've joined us, welcome, Phil Corwin, on behalf of two PDPs, one of the things Petter, I'll be very hard for you to lead a breakout group from Sweden, perhaps Phil, one of the things that Petter raised is a challenge with capture, is that a challenge or concern or would you like to comment yourself?

Phil Corwin: Well apologize for showing up a bit late, I was – but yes, we have a PDP right now which has been operationally captured by a single interest and I think that is a concern in combination with the fact that such a high degree of consensus is required to get anything out that Council can approve, it allows a small minority to basically block action so I think that is a concern.

Heather Forrest: Thanks, Phil. So we'll let you lead a breakout group on that. And then finally Thomas, you've give us quite a bit to think about, the need to have all views on the record and the challenges that that entails, the lack of incentivization or the absence of a hard deadline, the time of a PDP and how we calculate that, and parallel Board lobbying, which of those, Thomas, do you think is the – the nut that we can possibly crack over tea?

Thomas Rickert: Let me take on Board lobbying.

Heather Forrest: Thank you very much. So what I'd like to do is welcome everyone to go out to the coffee tea break, grab your coffee and tea, look for each one of those individuals who will be standing with a white board somewhere in the room. If you have your favorite pet peeve and it aligns with one of those, please by all means join that discussion group and contribute. We're starting to think now about solutions. So with that we can end the recording for this session and we'll turn it over to the tea break, thank you.

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