

**ICANN
Transcription
Standing Committee on Improvements Implementation meeting
Tuesday 03 June 2014 at 19:00 UTC**

Note: The following is the output of transcribing from an audio recording of Standing Committee on Improvements Implementation meeting on the Tuesday 03 June 2014 at 19:00 UTC.

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<http://audio.icann.org/gnso/gnso-sci-20140603-en.mp3>

Attendees:

Ronald Andruff – Commercial and Business Users Constituency – Primary – Chair
Greg Shatan – IPC – Alternate
Thomas Rickert - Nominating Committee Appointee – Alternate
Wolf-Ulrich Knoben - ISPs and connectivity providers Constituency (ISPCP) – Primary Member
Avri Doria - Non-Commercial Stakeholder Group (NCSG) – Primary Member
Cintra Sooknanan (Vice-Chair) - Not-for-Profit Organizations Constituency - NPOC
Constituency – Primary Member
Anne Aikman Scalese – IPC – Primary
Angie Graves – Business Constituency (BC) - Alternate
Lori Schulman – SOI

Apologies:

Amr Elsadr – Non-Commercial Users Constituency (NCUC) – Primary Member

ICANN Staff:

Mary Wong
Julie Hedlund
Terri Agnew

Coordinator: And the recordings have been started.

Terri Agnew: Thank you, (Shirley). Good morning, good afternoon and good evening and welcome to the SCI call on the 3rd of June, 2014.

On the call today we have Thomas Rickert, Cintra Sooknanan and Ron Andruff, Anne Aikman-Scalese, Wolf-Ulrich Knoben, Greg Shatan, Laurie Schulman, Avri Doria and Angie Graves. We have apologies from Amr Elsadr.

From staff we have Julie Hedlund, Mary Wong and myself, Terri Agnew.

I would like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much and over to you, Ron.

Ron Andruff: Thank you very much, Terri. And I extend my welcome to everyone as well. We've got a couple of items on our agenda to get after today. And I'm happy to see that there's a few things we're closing on.

But before we go any further I'd like to just ask if anyone has had a change to their SOI since our last meeting recognizing that Laurie Schulman is just joining us and she'll be getting her SOI in shortly. Does anyone else have any changes to their statements of interest since we've last spoken?

Hearing none we will mark that in the agenda as having no changes and we will move on to the first item and that is the - to confirm the closing of consensus call on the working group consensus levels.

I'd like to ask Mary because she shepherded this in the last days if you'd might just give a summary, Mary, of where we are and what's necessary in the next steps. Thank you.

Mary Wong: Sure. Thanks, Ron. So I think most people know - so let's just do a quick recap that this was the language that was finally arrived at. And as you see on the screen the highlighted yellow portion, rather than change the actual wording of the Working Group Guidelines which is what you see at the top part of your screen, it was felt that it would serve the purpose to simply add the footnote that's been highlighted with the further notation to the GNSO Council when this is sent back that those guidelines themselves, or the consensus levels, might well be looked at as part of a more full review of the efficacy.

So the consensus call was first sent out at the end of April with a second one sent out a couple of weeks following. We heard from most of the SGs and constituencies and not - the NomComm appointees.

And in the last consensus call we did say that if we don't hear back from whoever is left that they will be deemed to have consented. And this was important because the SCI works on full consensus.

So unless there's anything else it was just pretty close. What I'll do is obviously run the language past our internal legal folks to make sure that there's not anything else happening anywhere else that requires us to come back to you guys.

That the outstanding thing, Ron, I think is that since we have other items on the agenda that may go to a consensus call that any change to the GNSO Operating Procedures, including the Working Group Guidelines, the idea I think we agreed on was that instead of sending them out piecemeal for public comment that we would try and send them out all at once.

So even if this consensus call is closed for this topic you probably will not see the public comment forum open until we've dealt with the other items. And that's it.

Ron Andruff: Thank you very much, Mary. That's excellent. And I think that in fact - Yes, I concur with your statement that those who did not respond on the list or whichever it was tantamount to consensus as we made lots of entreaties to those groups.

And I know for - that the Registry Constituency, which has been largely absent on our calls, in fact did - Keith Drasek did approve that. So I'm very happy to see that work item now coming to closure.

And so the next step is you will - if I understand you correctly you will run that through Legal just to make sure that we're not conflicting with anything else. And then after that we'll hold it in abeyance before delivering it to the - putting it out for public comment.

So from a timing perspective whenever the next two or three pieces of work are completed then we'll send them all out, is that your understanding, Mary, do I have that correct?

Mary Wong: Ron, that's correct.

((Crosstalk))

Ron Andruff: ...for public comment, right? Yes.

Mary Wong: Right, and one of the - I think we had talked briefly about topics of conversation with the broader GNSO community and the Council during the update session in London. And it seems like there are two things there. And I might be jumping the gun a little bit, let me just mention them.

That, one, there seems to be...

Ron Andruff: Please.

Mary Wong: ...other issues that come up, you know, we've seen this in the SCI. And yet a lot of the referrals that come back are, you know, single ad hoc projects. So there's a question of whether or not, you know, the Operating Procedures as a whole should just be looked at.

And in that regard the bigger question is whether that should be done now by the SCI on its own initiative or even if it's done by the SCI should that be part of the GNSO review that's also kicking off.

So not that I'm asking for a decision but that seems to be where we are. So holding the work that we have right now until it's all done seems to be a good way to move things forward while having those conversations.

Ron Andruff: I agree. And I appreciate that. And I think that discussion in London with the Council will be helpful in that regard. So I look to you to provide some notes on that for us. I see Anne and then Avri in the queue so please, Anne, go ahead.

Anne Aikman-Scalese: Yes, thank you, Ron. This is Anne with IPC. I had a question regarding the review by Legal. And perhaps I missed the - in missing the last call I missed the change in our procedures. Are we now going to submit all of our work to legal for review prior to recommending it to Council? Thank you.

Mary Wong: Ron, if I may?

Ron Andruff: Very good point. Please, Mary.

Mary Wong: It's a matter of practice that just all documents that go out, whether it's a report by working groups or anything we just let them know that this is what's going on. It's not for re-editing and it's certainly not for any form of change of discretion from the community; it's simply like I said, so to the extent there's an issue somewhere else, for example, or some other department is working on something that we in the policy team in this particular instance gets notified of that.

It does save us having to chase around after, you know, 16 different people and departments. And because most departments would run things through Legal in the same way they are in some ways the central repository of information about what's going on.

And, for example, not relevant to the SCI, but if the Board is considering a certain measure that's been proposed by a different SO or AC so to the

extent that's relevant then they let us know. So that's really the purpose, it's not re-editing or anything.

Anne Aikman-Scalese: Just follow up, Ron. Maybe I don't understand the sequence. It sounds like Mary is saying that we are - we just send it to Legal when we send it to the GNSO then in order to keep Legal informed? It's not a question of not being able to send our recommendation to the GNSO until Legal...

Ron Andruff: That's correct.

Anne Aikman-Scalese: ...has reviewed it?

Ron Andruff: No that's correct. I think your assumption is the same as mine and that is I think Mary is just making sure she's just running it by Legal because it's multiple departments maybe doing different things to make sure this isn't conflicting with something. In any case it's going to go out to public comment before it goes to Council. I think this is just...

Anne Aikman-Scalese: Right.

Ron Andruff: ...from my view it's just dotting and I and crossing a T just to be on the safe side. And it's not - this isn't something that we're prescribed to do with everything we do. But because there's so many moving parts within ICANN right now...

((Crosstalk))

Anne Aikman-Scalese: So we just send it simultaneously to Legal when it goes out for public comment.

Mary Wong: Anne, if it makes - if it makes it easier it's literally a three-minute short conversation between...

((Crosstalk))

Anne Aikman-Scalese: ...I mean, there might be situations where that's not true. So I'm just trying to understand what our - what procedure we are in fact adopting.

Mary Wong: Basically because...

Ron Andruff: I think that's correct.

Anne Aikman-Scalese: Right.

((Crosstalk))

Ron Andruff: Go ahead, Mary, please - Yes, Mary, go ahead, I'm sorry.

Mary Wong: No, no problem, Ron. Essentially before anything is published for public comment there's no real rule or practice about whether you sent it right before or whether you send it during the deliberations. It really is simply whatever seems to be the appropriate time. So that's really all there is to it. There's nothing more prescribed than that.

Anne Aikman-Scalese: So I understand our practice to be we will send it simultaneously with sending it out to - for public comment.

Ron Andruff: I don't have much problem - I think what Mary was trying to do is just trying to, you know, sort of clear that - just check that box before we send it for public comment but they can both at the same time as far as I'm concerned. Maybe I can bring Avri in; she might have something she wants to add to this. So, Avri, first of all let me say I'm glad to see you on the call. I saw you submitted some...

Avri Doria: Yes.

((Crosstalk))

Ron Andruff: ...appreciate you joining.

Avri Doria: Yes.

Ron Andruff: Please go ahead.

Avri Doria: Yes. Yes, thanks. I used this call as an excuse to get out of another obligation so thank you very much for having our call during this time period.

Ron Andruff: You're most welcome, madam.

Avri Doria: I was going to comment on something else and I still want to but I want to comment on this. I personally think it makes sense to send it as soon as possible. And I think it's good to always pass things by them. I think it's good to pass them by them as early as we're ready. Sometimes it's even before we reach consensus if we have a question.

But in this case this is really something that affects PDPs, that affects decisions on what happens inside the picket fence, that affects - in addition consensus policy which is a contractual issue. So to have Legal give it a quick once over and say, Yes, that doesn't change anything is probably something that's worth doing as soon as possible. I see no reason why it would have to wait.

And in a case like, you know, these things I think the sooner we get their vetting, which is sort of a passive vetting where I expect that we'll only hear back if there's an issue, other than Mary saying, Yes, they saw it, no issue. I think it's a good thing to just get it out of the way as quickly as possible as opposed to waiting until the comment period.

I don't think this is an issue. I don't believe it's an issue but anything that has to do with defining consensus and a consensus policy that affects registries, you know, and possibly registrar contracts should be passed by them just for sanity's sake. Now that was - the extra point I wanted to make. Let me see if I can remember my other.

Ron Andruff: Thanks for sharing that. Go ahead.

((Crosstalk))

Avri Doria: So, Yes, if you wanted to go back to, you know, just to make sure that this topic was closed before I went on.

Ron Andruff: Go ahead, I think, Avri. Anne and I are communicating in the chat so I think we're good to move forward on that. Thank you.

Avri Doria: Now I'm trying to remember what we were talking about when I raised my hand because I did have a completely different point I wanted to make on something.

Oh yes, on the issue of us looking - the combining of the issue of us grouping a couple things together before we send them to the GNSO for approval and the review of the whole operations manual I think that those two issues should be divorced.

I think that we should probably - we'll most definitely have to, or whoever is on the SCI at the time - will have to look at that in light of the review. But the review is many months to a year before it's resolved. And, A, I don't think we should do a review of the book before then because that would just, you know, we'd review it and then we'd end up changing so we'd end up doing it twice.

But these other point changes that are either issues that were requested or issues that come up as a problem while I agree with batching them so that we're not constantly doing comments I don't think that we should delay them a year. And I don't think we should do the review of the book before we've had the review. So, you know, I would divorce those two issues is what I'm arguing. Thank you.

Ron Andruff: Thanks, Avri. I think for my own personal point of view I agree. We're about to - we're going into GNSO review right now so as a result of that - and we're, you know, there's some work parties and work groups involved in that so this may be part of that but we'll discuss this with the Council when we're face to face in a couple of weeks.

All right then unless Anne has any more - okay thanks. Don't think Legal should delay recommendations. Great. All right so then as far as the confirming closing of consensus call before working group consensus levels, unless there are any other issues anyone would like to raise I will close this topic but I leave the floor open for another couple of seconds if someone wants to raise their hand to discuss more. Otherwise I think we've covered the ground on this consensus work.

And I'm very grateful to all of the members for really drilling down deeply on this one and making sure that we send something back that makes sense. And I'm very proud of the fact that we found ourselves just adding a footnote here instead of making a change because it was a very significant change. So congratulations to all of you for the good work and thank you for that.

All right so moving on then we are on item number three on the agenda. It's the finalization of the proposed language for waivers exceptions in preparation for formal consensus calls.

Julie Hedlund: And, Ron, I apologize. This is Julie Hedlund. And I apologize for not raising my hand. But I've been kicked out of the Adobe Connect room and I'm trying to...

((Crosstalk))

Julie Hedlund: ...but that means...

Ron Andruff: Go ahead, Julie.

Julie Hedlund: ...I cannot raise my hand and I also can't bring up the document. So I'm very, very quickly trying to get back to where I'm supposed to be and that's why you're not seeing anything on the screen right now that's...

((Crosstalk))

Ron Andruff: Well, one of your colleagues has helped you I think with that because the document has just appeared. I'm not sure...

((Crosstalk))

Julie Hedlund: Wonderful. And I'll keep trying to get back in. Thank you very much.

Ron Andruff: Very good. Thanks, Julie. All right so we have this - and we had a sub group that was working on this document. And I want to thank Mary also for really staying on top of these elements over the last period and getting the information out to us to talk about everything today.

And this is - we're reflecting here on the language for which the 10-day rule - let me see, I'm actually looking between two documents simultaneous. In fact, maybe I'll just go to you, Mary, because you're the one that sent this out, if I'm not mistaken, with this fresh language. Perhaps you could bring us up to speed on that?

Mary Wong: Sure, although, Ron, I was going to actually punt this and defer to Greg who did the last turnaround, the actual language.

Ron Andruff: Oh. In fact why don't you do that? I'm sorry to interrupt you. But absolutely, I realize now that Greg was the final submitter of this and that was very helpful so please, I beg your pardon, Mary. Greg.

Mary Wong: Not at all.

((Crosstalk))

Greg Shatan: Hi, Greg Shatan.

Ron Andruff: Greg.

Greg Shatan: I'm here. You know, we've, you know, seen this language a couple times before and we've tweaked it now to - so that it will work with the resubmission rule. And that's going to be, you know, just a minor change.

And I think that, you know, as it stands now this allows for a motion to be submitted within the 10-day blackout period as long as it's submitted 24 hours in advance of a Council meeting. And it's flagged with the request for consideration of a late submission. And the request for consideration needs to be voted on first on the agenda before the actual motion itself can be considered.

And that needs to be unanimous vote both a full vote in the sense that every seat has to vote and it has to vote in favor. So that is - I think the - pretty much the explanation of what's going on here.

Ron Andruff: Thanks, Greg. Avri, I see your hand is raised. Please go ahead.

Avri Doria: Thank you. Yes, and I apologize for this but I just realized it again while I was reading it, in combination with the other proposal that's been put forward for the possibility of voting between meetings.

And of what occurred to me and what I wanted to bring up and wanted to ask people - I'm not putting an objection to this in any sense but what I wanted to ask people is now that we've - are going to be discussing, without presuming that it will be approved or not approved or anything but now that we are considering that it's possible to take a vote out sometime other than during a meeting I'm wondering if a phrase here that says the motion shall be considered at the next GNSO Council meeting is basically being too specific.

And because it may - we make in the next month be adding another procedure for possibly taking a vote which will have its own conditions etcetera. So basically I was wondering whether it made sense. And I'm sure this is not proper legalese so someone might have to tweak what I'm saying that basically shall be considered at a later time.

Enter that leaves it open for someone to, you know, withdraw the motion, to change the motion order to sort of argue for yes we understand that people need to go back to their constituencies and stakeholder groups to check on this but we would like to plan for a call at another time.

So in other words that we're not again (unintelligible) this whole idea of not making a fixed rule or not making a rule that's based on a fixed condition when there may actually be multiple conditions that would resolve it.

So as I say, if people want to continue with it as it is I'm not going to enter, you know, a sort of thing but I was just basically - especially since they're going to go together, you know, this one, that one and maybe the next one if we - I don't know if I'm still on, I heard a funny noise - if we basically wanted to basically pause this while we, you know, go on to other work and then come back.

Or we can just change it to at a later time and leaving it open and then call it done. So it just occurred to me on rereading it for today's meeting. Thank you.

Ron Andruff: Thank you very much Avri. I always thought this element myself - and I'd like other committee members to give me their thoughts on this if I'm off base or on base on this one. But I always thought this as kind of an extra tool in the toolbox for the Council chair to pull that to allow it in those extraordinary circumstances.

But this was not something that was a regular activity. And for that reason I was comfortable with the idea of putting a tighter framework around it just to make sure that it didn't become a place where people could use it to stretch things and to do, you know, things that, you know, different SOs ACs, constituencies, whoever they might be to try to, you know, the old phrase we use is a game the system.

So that - I kind of saw this as, again, a very narrow activity; it happened irregularly and it was really at the chair's discretion. So that's something I would put out there. And I wonder what do you think - I see Anne and Greg are in the queue, maybe others might comment on that - on my view whether I see it rightly or wrongly. So please, Anne, why don't you go ahead and then we'll follow you with Greg.

Anne Aikman-Scalese: Thank you. It's Anne with IPC. I tend to agree with Avri, I probably would not use the language, just at a later time; I would probably say, "Shall be considered at the next GNSO Council meeting," or, you know, if appropriate under the rules in, you know, for e-voting. In other words however - I'm sure Mary would do a better job of drafting that than I would.

If we were going to use really general language like "at a later time" I would just say "pursuant to the," you know, "operating procedures to encompass all of them."

I think there was a case of a motion where a meeting had to be called. And I honestly think what went on was IPC, for example, and Greg will have more to say about this, was the I think standing on the procedure but then there had to be a special meeting called to vote on something that probably, under the new e-voting procedure, would have been appropriate for email voting rather than calling a meeting.

So I'm sure Greg can, you know, mention more about that, and I think Avri as well. But it seems to me that it probably should be considered here in the very last yellow section there that should be slightly modified. So I tend to agree with Avri. Thank you.

Ron Andruff: Thanks, Anne. So when you say that very last section you're referring effectively to the last sentence begins, "If these requirements are not met," is that correct?

Anne Aikman-Scalese: Yes.

Ron Andruff: Thank you very much. So Greg has offered something in the chat and Thomas as well. But Greg is next in the queue so please Greg.

Greg Shatan: Hi, it's Greg Shatan. When we put this language in, the group that was working on this, the idea was basically to indicate that if it failed this special waiver process then it would be considered timely submitted for the next meeting. This was not intended to restrict how a motion would be dealt with; it was not meant to say that the only way that such a motion could be dealt with was at the next regularly scheduled Council meeting.

Rather it was intended to be in essence kind of permissive which is, oh, you try to beat the deadline that you missed and you didn't beat the deadline but you missed so now you're on time for the next train. That's all.

Not to say you can only be on the next train but rather that since you have made a submission you can deal with it on the next train. Now if we put a special train on before the next meeting this was not to say oh, it can't be dealt with this way.

So the language I've suggested I think more explicitly expresses the idea that we had which is that it's considered timely submitted for the next meeting. That doesn't mean that a special meeting couldn't be called which it was considered; that doesn't mean that it couldn't be dealt with on an e-voting process. But I think this just strictly speaks to the fact that the late submission is too late for this meeting but it's considered on time for the next one.

Because I don't want to park this on the side while the e-voting issues are dealt with; I think this is pretty ripe. I don't think that what I proposed would have any affect pro or con on dealing with an unaccepted late motion on an e-voting process or at a special meeting. Thanks.

Ron Andruff: Thanks, Greg. That clarifies a lot. And I appreciate the way you've encapsulated it as a clean element. I'm going to come to Avri but Thomas, you had put a note in as soon as practically possible. With what Greg has just said right now can I look to you, Thomas, to get your feedback on what you just heard?

Thomas Rickert: Well I guess that Greg's suggestion more accurately reflects the intentions and my attempt that I posted in the chat. Having heard what Greg said I was wondering, though, whether we should just say, "According to the," or, "Should be considered according to the rules applying for GNSO Council meeting," if that would allow then for e-voting and other mechanisms that could place them outside virtual or physical GNSO Council meetings.

Ron Andruff: I see Anne likes that idea. Perhaps I can ask Greg and then Avri how you feel about that recommendation. I think that's a good solution; very elegant. Greg.

Greg Shatan: Well I guess the issue is if there is no - if there's no event yet scheduled, you know, then I'm concerned that we're now saying it's kind of timely submitted for something that doesn't yet exist. The reason think that it makes sense to say it's timely submitted for the next meeting is at the next meeting is on the calendar. So I think that if there's nothing on the calendar you can see that it's timely submitted for it.

Ron Andruff: Very good point.

((Crosstalk))

Greg Shatan: ...deal with that separately.

Avri Doria: Yes.

((Crosstalk))

Ron Andruff: Avri and then followed by Mary. Thank you. Go ahead, Avri.

Avri Doria: Thank you. Yes, first of all there was no intention of putting in this at the next possible time so that something could be built in for gaming. And in fact I'm very concerned, now that we've started talking about it I'm getting more concerned about it by the moment, is that I can see somebody forcibly delaying it until the next meeting even really all they needed was a week to check with their constituency because the rules say.

But, no, it shall be considered - shall be. You know, that shall be a pretty definite word. Shall be considered at the next GNSO meeting. It doesn't allow you any leeway to do anything else; it says it shall be considered. You know,

what about if you withdraw it? I'm not sure. It shall be considered at the next GNSO meeting.

So now I'd like Thomas's language almost because I think that instead of being according to the rules of meetings it should be according to the rules for motions. Because if e-voting happens - and I'm not presuming it happens but I'm also basically looking for a general statement as opposed to a specific statement that, you know, it should be considered, you know, perhaps, you know, according to, you know, the rules for motions as stated in the Operating Procedures.

And then it leaves it definitive the next meeting is indeed the next opportunity unless another opportunity is defined. But I am absolutely positive that if that were to happen and we only needed another week's worth of consideration for going back to a constituency or a stakeholder group and someone says, Yes, but it says it shall be considered at the next meeting, it doesn't allow for the use of the e-voting procedure in this case.

And that to me sounds like we're building in a block to other possible procedures. So the more I think about it the more it looks to me - but I'm not suggesting necessarily parking it. If it we put in a general phrase like that we don't have to park it. I was just thinking that it was being batched with other stuff so it was parked anyway. Thank you.

Mary Wong: Ron, are you on mute?

Ron Andruff: Thanks, Avri. So I had little trouble getting off mute. Go ahead, Mary, please, you're next in queue and then followed by Thomas.

Mary Wong: Thanks, Ron. Just two quick points. One, to follow up on Greg's and the other on Avri's. The first is that in the Operating Procedures there is a requirement - and so far it's never been a problem as far as I know that the GNSO Council

meetings have to be scheduled I think maybe up to 12 months or a year in advance.

They often are changed around or, you know, rescheduled or even cancelled but there is a schedule and that's part of the requirements of the Operating Procedures. So maybe that's helpful on that point.

On Avri's point, I guess the way that it works here is that if all the votes have to be unanimous it pretty much can be as a deferral. But in relation to the electronic voting outside a meeting question, I seem to recall that that draft does presume that there must have been discussion and that discussion can take place outside the Council meeting but there has to be some sort of substantial discussion prior to that sort of vote being called.

So I wonder if, by having Greg's or Thomas's latest language and basically saying in effect that okay we can't consider it at this meeting, it's considered a timely submission for whenever the next meeting is, that that's still a allows flexibility with the voting rolls, including the e-voting possibility, without any further risk.

Ron Andruff: Thanks, Mary. Thomas. Anne seems to like...

((Crosstalk))

Thomas Rickert: Thanks, Ron. I had suggested another variation in the chat which is a combination of Greg's original language plus my suggestion. And I'm more than happy to even tweak it further by honoring Avri's request to replace the words, "GNSO Council meeting" to the "GNSO Council Operating Procedures" so that we have not formally correct in the language.

And I think that Greg is absolutely right that we need to tie this to a specific event. And maybe this combination could do the trick. So I've seen support by Anne and Avri. So, Ron, maybe you could ask the group whether there is

somebody or anybody objecting to this suggested language. And if that was not the case I think we would have something that we could all work with.

Greg is against it. Bummer.

Ron Andruff: I'm sorry, Greg is next in the queue so let's go ahead. Greg, please go ahead with your thoughts.

Greg Shatan: Yes, I just think that the language - the additional part of the language that Thomas suggested is unnecessary. It will always be - all this is saying is that it is a timely submission of for the next meeting. It's not saying that it can't also be proposed for email voting; though that may or may not be - may or may not qualify for that. That's not to say that somebody can't call for a special meeting just to consider this.

But this is dealing with a very specific event which is that a motion is submitted late, a motion is submitted with request for consideration as a late motion. The request for consideration is voted on by the GNSO Council and it fails, which means that it can be considered at that - that the motion itself cannot be considered at that meeting.

So the question is now what is the status of that motion? Does it need to be submitted again for the first time for the next meeting? We thought that was overly technical so the end result is to say that, okay, it is timely submitted for the next meeting. That does not preclude putting on a special meeting to consider it or to propose that if it applies to the email voting.

But I don't think there's any need to say that it's going to be dealt with as a motion because clearly that kind of goes without saying, what else would it be dealt with as? A pancake? So I think that it just should be - it should just say it's considered timely submitted for the next GNSO Council meeting and leave it at that. Thank you.

Ron Andruff: Thanks Greg. So, Thomas, you can have the last word on this and we'll try to wrap this up a little bit. Go ahead.

Thomas Rickert: Thanks. I hope that my words are not going to be the last word on this one. I hope that Greg is just going to say yes to what I'm suggesting because, Greg, I guess this is a follow up question to your analysis which as Cintra mentioned in the chat is a good one.

I heard you saying that you deem my suggested additional language redundant. And I think if it's just redundant you might still be able to live with it. You know, we've been working on this issue quite intensively over quite a substantial period of time. And I think that it might be difficult for the reader of the revisited policies to absorb what was meant and what was said and what was - what the implications of all this were.

So I think if we can help the reader to better understand that there's no requirement to deal with this at the next physical or telephone meeting by the Council but that it can be dealt with according to the rules applying for motions I think that might help people better understand how to apply this policy.

So I think if you're not necessarily against this you might be able to say okay it's redundant but still I don't care that much.

Ron Andruff: Greg, I'm going to give you the floor in a second. But I wanted to comment on what Thomas just noted. And I think if we - let's just look at where we are. All of that yellow text is what we're discussing right now but everyone agrees on the first opening and the three bullets. It's just that last sentence.

And Anne pointed out, quite rightly, if you look over to the right under Notes and the actions you'll see Option A, Option B. And the Option B language does look like it might fulfill what we're talking about here. It's really about is

this motion timely or not timely and it is attached to a meeting or not attached to a meeting.

And that seems to be what we're discussing here. So Greg has his hand up so I'm going to let him speak to that. And then we need to take a decision how we want to progress this and get on to our next topic. So Greg please, go ahead.

Greg Shatan: Thanks. I guess my concern is that it's not just redundant but I don't see what it does; I don't see how it clarifies anything when all we're saying is that the motion is going to be timely for the next GNSO Council meeting.

And my concern is if you do add language to something then people need to figure out what that language means; what does that language do. And I can't see what the language does. So I don't even necessarily think it's redundant because I don't think it repeats anything earlier.

I think it's - it doesn't do anything which I think what it does do then is make for confusion because if it doesn't do anything why is it there? And if it does do something to change what comes before it what is it doing? I still don't understand how it adds or changes what's before it. Thank you.

Ron Andruff: Greg, if you look at what I suggested there, Option B, if these requirements - on the right hand side of our screens - "If these requirements are not met the motion shall be considered timely submitted for the next GNSO Council meeting." Do you have any problem with that language?

Greg Shatan: It looks perfect to me.

Ron Andruff: Thank you. I see Anne. I see Avri. Please, Anne.

Anne Aikman-Scalèse: Yes, thank you, Ron.

Ron Andruff: And I'd ask you the same - I'm sorry, Anne, I'd ask you the same question with that Option B; do you have any trouble with that language?

Anne Aikman-Scalese: Well I'm - a bit of trouble because I think we're avoiding the substantive issue that Mary described earlier. I believe Greg's logic is correct. However, I think that one could then get into a debate with - in this situation as to whether or not the particular motion could be voted on by e-voting. And in our draft language for that we've said that the chair determines that.

The substantive issue that Mary raised is kind of an important one because in e-voting we talked about full discussion being a condition of e-voting. And so these - there is interplay between these two provisions. And so on one hand we seem to be saying, hey, that's not going to prohibit e-voting, choosing Option B.

But on the other hand I don't think it clarifies that question either way or that we have discussed that question substantively under Option B. I think under Option A probably you're saying, Yes, e-voting is okay. I'm not sure you're saying that under Option B.

And lastly, I'm not sure we've adequately, you know, considered the substance - substantive issue of full discussion that applies to e-voting because how do I know we wouldn't want to say, shall be considered timely submitted for the next GNSO Council meeting and should - and should not be the subject of e-voting in between the two meetings?

My original assumption was that would be fine. But then I thought well, wait, that's a substantive decision.

Ron Andruff: Right, so I'm going to ask Avri to speak. We'll draw a line on this one and then we're actually going to move to that next topic and so we see that they are kind of conflated. So Avri, please go ahead first and then we'll take next steps on this one.

Avri Doria: Thank you. Yes, so I believe that they are somewhat conflated but I don't see a problem. And yet I - it takes stepping back and looking at a case. We have a case here that someone submitted something late because something needed to be done. They're not going to do it just because, oops, I forgot to submit on time and therefore I'm submitting late. There's something that needs to be done.

Now within the case example on building, you know, for example it's - the standard question we get is I haven't had time to consult with my constituency. You know, they may have actually spent an hour during the meeting talking about it, you know, it came up, they talked about it and there's been a discussion.

Somebody - several bodies need to go back to their constituencies before they could actually vote on it. But there's something that needs to be done. Now within the other decision that we haven't gotten to yet on e-voting if e-voting happens, there is a condition that Mary brought up that it has to have been fully discussed.

If it wasn't fully discussed then the chair's not even going to submit it for e-voting. If it hasn't been adequately discussed by everybody it's not going to past the e-voting rules. And, you know, we're now going to talk about the e-voting rules and make sure that they're adequate to those purposes that it was set up to accept.

So this is basically saying - and so that's why the language in A is actually closer, it's just saying it is subject to the rules of motions whether it's e-voting. You know, we may come up with some other kind of donkey, some other day in the future that is neither e-voting nor voting at the next GNSO meeting. I don't know what but basically I'm saying we don't build rules that have firewalls against other possible rules.

And I've become convinced during this discussion that leaving it as it is leaves it open to gaming of somebody saying ha ha-ha you were late. Yes I know this has to be done by three weeks from now; not four weeks from now. But you were late and so therefore I'm, you know, I'm going to vote against your - against accepting it. And by doing that I'm going to have effectively blocked this from ever happening because you have to wait for the next meeting so it says shall be considered at the next meeting.

And, Cintra, I thank you for the attempt of "may" but "may" is just makes it sort of fuzzy. And in fact I don't know because obviously Greg's a lawyer and knows better than me. But "may" could possibly damage his intent of saying, hey, this is ready at least for the next meeting.

So I really prefer something that, like Thomas was offering and he offered several paths of it that sort of say this is - it's great to say that it's qualified for the next meeting and it will be voted on according to the rules of the Operating Procedures on motions.

And then if we do create the other rule that's fine; it may apply. If we don't create the other rule then it doesn't matter. So I've become convinced in this discussion that it's important and therefore even though I said at the beginning that I wouldn't withhold my consensus on it I realized, listening to Greg's arguments and listening to the whole conversation, that I was wrong. Thanks.

Ron Andruff: Thanks, Avri. This is very helpful. I'd like to ask - I see Greg's hand but I'd like to ask one - asked if we might do a straw poll just to get a sense of, you know, we're very - we're limited number on this, the call obviously. But the straw poll would look like this. If you'd like Option A you would click on Agree. If you like Option B you would click on Disagree. And if you don't like either option and it needs more work, you would click on Step Away.

So there's three choices; the green checkmark is for A; the X is for B and neither of the two, meaning it needs more work, would be Step Away. So if you guys could just give me your sense of which one you like the most that would give us a sense of where we're at.

So, Laurie, if you look on - under your checkmarks up above you'll see a little man standing. If you open that up you can click on there and you can make your choice. Thank you, Laurie.

Wolf-Ulrich, can I ask you to make a choice on one of these to get a sense. Green is - the green checkmark is Option A; the red X is Option B. Very good.

Okay so generally we are kind of leaning that way. Thank you all. You can clear those checkmarks. That's very helpful. I would suggest that what we do now is ask the subgroup just to come back with some refinements on the language that we've discussed right now because I do want to take a couple minutes on e-voting even though time is short.

So if you would agree that the subgroup will take that back. And I'm not sure, Greg, you're running - you're leading that but maybe Thomas might join you, Avri, Anne, to give you some assistance on that. And if the three or four of you could then kind of work through that wordsmithing to come up with something you're all comfortable with I think the majority of us also would be comfortable with that on the committee.

So with that we'll close that one out. Thank you very much, Greg, for allowing me to take away your speaking rates on that last one. But I do want to take a couple of minutes on electronic voting and I believe that was Thomas and Avri and I'm not sure who else was on that. But if you could just give us some thoughts on that on e-voting that would be very helpful please. Avri or Thomas.

Avri Doria: Thomas, you are sort of our leader for most of it so - and I've been talking too much.

Thomas Rickert: Yes, this is Thomas. My difficulty is that I was on vacation recently so I might not even have the latest information on this...

Ron Andruff: I recall exactly that was being sent to you, Thomas. I recall seeing that so, Avri...

Avri Doria: Okay, I'll take it.

Ron Andruff: ...if you wouldn't mind? Yes. Thank you.

Avri Doria: Unless you'd like it, Anne? But - okay so it's not much time. Okay so we agreed that the argument was first that there may be cases when GNSO Council voting out of the meeting is either necessary or desirable. And then we came up with a couple illustrative examples, non-exhaustive.

For example, there was a substantive discussion either in Council or both in Council on mailing but there was no time for a vote at the end of the meeting, like today we talked and talked and talked and didn't have time for the vote.

Or that we've done but - and the example I used earlier, someone really needs to go back because there's been an amendment, there's been something, they need to go back to their, you know, stakeholders and say, hey, I need advice.

And then the other example that I used is this needs to be done before the next meeting either because, there's been, you know, there is some other outside influence that's basically saying hey, you know, we need a decision from you guys and a month between meetings, you know, the Board is going to act on this in three weeks and we need your answer. So - and that's non exhaustive.

So then - So for voting outside the meeting first the chair determines, after discussion etcetera, you know, that, Yes, we've talked about it, nobody has any more issues. This is done on the list or it's done in the meeting. Nobody's got any more issues and the chair determines Yes, this one is ready to be voted on.

The chair has also accepted that it meets a condition that waiting until the next meeting is too long and that therefore something needs to be done quicker, either call a special meeting or in this case if this exists e-vote.

Again, like the previous things that we've done there's unanimity on the fact that this can go to e-voting. No councilor raises their hand and says no and that the chair gives at least seven days advance notice of the vote.

So then basically the third point is that it meets the same conditions of a vote; that it's open and it is not a secret ballot because all votes in Council are open. This is an open vote also. It allows for the inclusion of voting statements in accordance with the current Operating Procedures, and that outcomes are published and recorded with accompanying voter statements just like as if it had been done.

So the conditions in three are basically meant to say it satisfies all the conditions of happening during a Council meeting. Then the method used to transmit outside meetings are authenticated and verifiable using the same criteria and applying the same standards as those used for absentee ballots under the operating - so also piggybacking - whatever...

((Crosstalk))

Ron Andruff: Piggybacking.

Avri Doria: I can't get the word out right. Piggybacking.

((Crosstalk))

Ron Andruff: I think - listen - I think, Avri, we're all clear.

((Crosstalk))

Avri Doria: You know, and then for avoidance of doubt basically if this is a PDP vote for which there is already absentee ballot rules this does not apply.

Ron Andruff: Thank you Avri. For my part I really appreciate the work that was done on this piece. I like it. I think it's strong and it really kind of approaches exactly the type of thing that we were asked to do.

I'd like to ask those on the call - because we just have a minute or two to go - just again to do another straw poll. And the straw poll this time will be I agree with the direction this is going and I like what I'm seeing is the Agree sign. And the Disagree sign is interesting but we've got a long ways to go. So if I can see the Agrees or Disagrees. Agree is I like what I'm seeing; and Disagree is we've got a long ways to go. Okay, Cintra is also saying we have some work to do.

Okay so I like to hear from Greg - or Cintra first please and then Greg and we can remove the checks. So if I can hear from Cintra first and then Greg and then Avri if in fact you'd like to...

Avri Doria: No, that was an accident.

((Crosstalk))

Ron Andruff: Oh right, fine. Thank you. So Cintra, you have the floor. You may be having trouble coming off of mute. While we're waiting for Cintra - she's actually typing something here now into the chat. So no, connection problems. Okay

very good. So Cintra will type what her thoughts are in the chat. Greg, please, why are you negative on the text that you're looking at? Please go ahead.

Greg Shatan: I really only have one concern actually overall. I think it's a good outline. My concern is that it isn't really until almost the end of the document that we mention motions. And I think it needs to be more clear throughout that the vote needs to take place pursuant to a motion that's properly before the Council in the first place or if it's a - there are a few instances when there are votes that aren't predicated on motions.

I was just running through the GNSO procedures on that. For instance, the vote for chair or vice chair or vote for special circumstances don't technically it seemed to be mentioned as being triggered by motions. But even those in practice are probably triggered by, you know, a motion for the chair or a motion to consider a special circumstance.

So this whole discussion of voting I think needs to be tied back to the notion that of what you're voting on. thank you. Which is a motion, thank you.

Ron Andruff: Thanks Greg. Thank you very much Greg. All right so we're at the hour and it's time to draw this call to a close so what I'd ask is, Thomas and Avri, who've done really great work on this email voting, if you might take into account...

((Crosstalk))

Avri Doria: And Anne.

Ra: ...and perhaps - I'm sorry?

Avri Doria: And Anne.

Ron Andruff: And Anne. Thank you very much as well as Cintra had some thoughts that she wasn't able to localize so I wonder if she might also just send a mail to you guys and we can tweak this document so that when we get to London for our next meeting we actually have some - a document we might be able to finalize because I think we're very close on this one as well.

And I would like to see - now we've had such a thorough discussion of the waivers exceptions prior to this and now without discussion tied into this one, although we all agree that these are separate issues there is some symbiosis between them that would be nice if we could harmonize that so that would be the way I'd like to see that one go if I may.

Mary, I see your hand is up, please go ahead.

Mary Wong: Thanks Ron. Just a quick question and confirmation. So given where we are with the next meeting of this - the SCI be on the Saturday when the London meeting begins rather than the Tuesday of that week?

Ron Andruff: That's my understanding yes.

Avri Doria: Yes.

Ron Andruff: That's it Mary. It'll be the face-to-face meeting where we pick this up again. Okay, so is there any other thoughts or comments someone would like to bring - Avri, I see your hand up, please go ahead.

Avri Doria: Yes, just basically so perhaps we can schedule a call though of the people that are going to talk about this sometime between now and then, Mary, and we can work out when. But perhaps - and perhaps Greg maybe we can have a meeting where we just talked both of these things and, you know, deal with the language issues.

Ron Andruff: That would be ideal. Yes absolutely. And I would encourage that so I looked to our staff colleagues to coordinate that call than. I see Anne. I see Greg and then we'll complete the call today. Please go ahead, Anne.

Anne Aikman-Scalese: Yes thanks, Ron. I noticed that Cintra's question related to whether there is a quorum requirement that is a problem in relation to that email voting proposed change. And I guess I would need to rely on Mary to look at the bylaws in relation to what constitutes a quorum that's necessary to vote. Cintra has raised quorum...

Ron Andruff: Thanks, Anne. Yes. So, staff, anyone want to respond to quorum? Mary is saying Section 4.1 of the GNSO Operating Procedures, to be precise so that's there. Greg, please go ahead.

Greg Shatan: My last note was just with regard to the final Section 6 quiet this section would not apply to votes for which absentee ballots would be permitted which include, you know, approving a PDP recommendation for instant. I mean, wouldn't we want to also allow email voting for those as well?

Ron Andruff: Yes I think - for my part I think - they should be - we should be holistic. Anything where we're doing a tweak should be holistic and it should be something that's harmonized across all of the activities through ICANN. So I wouldn't see why we wouldn't want to have that. But I am a nonlawyer and many of you are lawyers. I see Mary has her hand up. Mary, your thoughts on that?

Mary Wong: Thanks, Ron. And Avri, Anne or Thomas can jump in here. The subgroup did have a fairly lengthy discussion about this very point. And I believe the consensus was that because there is already a very detailed provision for absentee ballots that's one reason.

The second reason is that absentee ballots really only permitted for certain types of votes. But that's less timely a recent than the first. And if we go back

to the first reason there is a provision that you have 72 hours that kind of vote is done electronically.

So the subgroup felt that those were adequately taken care of by the absentee ballot provision such that this really would deal with a completely different situation.

Ron Andruff: Very good, Mary. That's good. so effectively what I'm hearing is we actually are, you know, tightening all of these elements up and the loopholes are kind of closing. It's all very good in my view. So thank you very much for that.

So we are now way past the hour and I know everyone has things they need to get onto. So I'm going to draw this call to a close and ask that the further discussion on the electronic voting continues for our London meeting and if you can coordinate with the group that's working on the waivers exceptions to make sure that all of that language works well together that would be very helpful.

If there's any other business anyone would like to bring to the committee at this point the floor is open. Hearing none I want to thank everyone for this really, really good work, it's always a pleasure to see this stuff kind of just get taken down to the very last letter and then finalized that's the kind of stuff we're doing and very much appreciated.

So I'll say goodbye to everyone and look forward to seeing all of you are as many of you as possible in London at 7:30 on that Saturday morning. It's awful but unfortunately that's the only slot we have. And, listen, somebody's got to kick off the ICANN meeting, it may as well be the SCI.

Thanks everyone. All the best and talk to you soon.

Avri Doria: Bye-bye. Thanks.

Mary Wong: Thanks, everyone. Bye.

Avri Doria: Good travels.

Terri Agnew: (Shirley), you can please stop the recordings.

Coordinator: Thank you.

Terri Agnew: You're welcome. That does conclude today's conference call. Please disconnect all remaining lines at this time.

END